

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF OHIO
EASTERN DIVISION

UNITED STATES OF AMERICA,

Plaintiff,

vs.

Case No. 1:16CR265

Akron, Ohio

Monday, March 19, 2018

ERICK JAMAL HENDRICKS,

Defendant.

TRANSCRIPT OF TRIAL
VOLUME 10, PAGES 1623 THROUGH 1729
BEFORE THE HONORABLE JOHN R. ADAMS
UNITED STATES DISTRICT JUDGE

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Proceedings recorded by mechanical stenography; transcript
produced by computer-aided transcription;

1 (Monday, March 19, 2018)

2 (Outside the presence of the jury:)

3 THE COURT: Good morning, Counsel. Are we ready
4 to proceed?

00:55:25 5 On behalf of the government?

6 MR. SHEPHERD: Yes, Your Honor.

7 THE COURT: On behalf of the defendant?

8 MR. DOUGHTEN: Yes, Your Honor.

9 THE COURT: All right. Let's have the jurors,
00:55:30 10 please, at this time.

11 (Jury in, 9:05.)

12 THE COURT: Good morning, ladies and gentlemen.

13 Members of the jury, now it's time for me to instruct
14 you about the law that you must follow in deciding this
00:57:48 15 case. I will read these instructions to you. Counsel will
16 then present their closing arguments. Then I will have some
17 file instructions to give you with regard to your
18 deliberations in this case.

19 Each of you will have a copy of the instructions I'm
00:58:06 20 about to read with you in the jury room. You may take
21 notes, but it may not be necessary to take detailed notes as
22 you will be able to refer to the instructions again during
23 your deliberations.

24 As I've indicated, now it's time for me to instruct
00:58:23 25 you about the law that you must follow in deciding this

1 case. I will start by explaining your duties and the
2 general rules that apply in every criminal case.

3 Then I will explain the elements or parts of the crime
4 that the defendant is accused of committing, in this case
00:58:39 5 crimes.

6 You will be told about some rules that you must use in
7 evaluating particular testimony and evidence. And last, I
8 will explain the rules that you must follow during your
9 deliberations in the jury room, and the possible verdicts
00:58:52 10 that you may return.

11 Please listen very carefully to everything I say.

12 Jurors' duties.

13 You have to main duties as jurors. The first one is
14 to decide what the facts are from the evidence that you saw
00:59:07 15 and heard here in court. Deciding what the facts are is
16 your job, not mine, and nothing I have said or done during
17 this trial was meant to influence your decision about the
18 facts in any way.

19 Your second duty is to take the law I give you, apply
00:59:26 20 it to the facts, and decide if the government has proved the
21 defendant guilty beyond a reasonable doubt. It is my job to
22 instruct you about the law, and you are bound by the oath
23 that you took at the beginning of the trial to follow the
24 instructions that I give you, even if you personally
00:59:43 25 disagree with them.

1 This includes those instructions that I gave you
2 before and during the trial, and these instructions. All
3 the instructions are important, and you should consider them
4 together as a whole.

00:59:57 5 The lawyers may talk about the law during their
6 arguments. But if what they say is different from what I
7 say, you must follow what I say. What I say about the law
8 controls.

01:00:14 9 Perform these duties fairly. Do not let any bias,
10 sympathy, or prejudice that you may feel towards one side or
11 the other influence your decision in any way.

12 Presumption of innocence, burden of proof, reasonable
13 doubt.

14 As you know, the defendant has pleaded not guilty to
01:00:30 15 the crimes charged in the indictment. The indictment is not
16 evidence of guilt. It is just the formal way that the
17 government tells the defendant what crimes he is accused of
18 committing. It does not even raise a suspicion of guilt.

19 Instead, the defendant starts the trial with a clean
01:00:50 20 slate with no evidence at all against him, and the law
21 presumes that he is innocent.

22 This presumption of innocence stays with him unless
23 the government presents evidence here in court that
24 overcomes the presumption, and convinces you beyond a
01:01:07 25 reasonable doubt that he is guilty.

1 This means that the defendant has no obligation to
2 present evidence or to prove to you in any way that he is
3 innocent. It is up to the government to prove that he is
4 guilty, and this burden stays with the government from start
01:01:22 5 to finish.

6 You must find the defendant not guilty unless the
7 government convinces you beyond a reasonable doubt that he
8 is guilty.

9 The government must prove every element of the crime
01:01:38 10 charged beyond a reasonable doubt. Proof beyond a
11 reasonable doubt does not mean proof beyond all possible
12 doubt. Possible doubts or doubts based purely on
13 speculation are not reasonable doubts.

14 A reasonable doubt is a doubt based on reason and
01:01:55 15 common sense. It may arise from the evidence, the lack of
16 evidence, or the nature of the evidence.

17 Proof beyond a reasonable doubt means proof which is
18 so convincing that you would not hesitate to rely and act on
19 it in making the most important decisions in your own lives.

01:02:14 20 If you are convinced that the government has proved
21 the defendant guilty beyond a reasonable doubt, say so by
22 returning a guilty verdict. If you are not convinced, say
23 so by returning a not guilty verdict.

24 Evidence defined.

01:02:30 25 You must make your decision based only on the evidence

1 that you saw and heard here in court. Do not let rumors,
2 suspicions, or anything else that you may have seen or heard
3 outside the Court influence your decision in any way.

4 The evidence in this case includes only what the
01:02:49 5 witnesses said while they were testifying under oath, the
6 exhibits that I allowed into evidence, the stipulations that
7 the lawyers agreed to, and the facts, if any, that I have
8 judicially noticed.

9 Nothing else is evidence. The lawyers' statements and
01:03:08 10 arguments are not evidence. Their questions and objections
11 are not evidence. My legal rulings are not evidence. And
12 my comments and questions are not evidence.

13 During the trial I did not let you hear the answers to
14 some of the questions that the lawyers asked. I also ruled
01:03:26 15 that you could not see some of the exhibits that the lawyers
16 wanted you to see. And sometimes I ordered you to disregard
17 things that you saw or heard, or I struck things from the
18 report.

19 You must completely ignore all these things. Do not
01:03:43 20 even think about them. Do not speculate about what a
21 witness might have said or what an exhibit might have shown.
22 These things are not evidence, and you're bound by your oath
23 not to let them influence your decision in any way.

24 Make your decision based only on the evidence, as I
01:04:01 25 have defined it here, and nothing else.

1 Consideration of evidence.

2 You should use your common sense in weighing the
3 evidence. Consider it in light of your everyday experience
4 with people and events and give it whatever weight you
01:04:20 5 believe it deserves.

6 If your experience tells you that certain evidence
7 reasonably leads to a conclusion, you are free to reach that
8 conclusion.

9 Direct and circumstantial evidence.

01:04:31 10 Now, some of you may have heard the terms direct
11 evidence and circumstantial evidence.

12 Direct evidence is simply evidence like the testimony
13 of an eyewitness which, if you believe it, directly proves a
14 fact. If a witness testified he saw it raining outside and
01:04:47 15 you believed him, or her that, would be direct evidence that
16 it was raining.

17 Circumstantial evidence is simply a chain of
18 circumstances that indirectly proves a fact. If someone
19 walked into the courtroom wearing a raincoat covered with
01:05:04 20 drops of water and carrying a wet umbrella, that would be
21 circumstantial evidence from which you could conclude that
22 it was raining.

23 It is your job to decide how much weight to give the
24 direct and circumstantial evidence.

01:05:19 25 The law makes no distinction between the weight that

1 you should give to either one or says that one is better
2 than the other.

3 You should consider all the evidence, both direct and
4 circumstantial, and give it whatever weight you believe it
01:05:37 5 deserves.

6 Credibility of witnesses.

7 Another part of your job as jurors is to decide how
8 credible or believable each witness was. This is your job,
9 not mine. It is up to you to decide if a witness's
01:05:53 10 testimony was believable and how much weight you think it
11 deserves.

12 You are free to believe everything that a witness said
13 or only part of it or none of it at all. But you should act
14 reasonably and carefully in making these decisions. Let me
01:06:09 15 suggest some things for you to consider in evaluating each
16 witness's testimony.

17 Ask yourself the following questions:

18 One. Was the witness able to clearly see or hear the
19 events? Sometimes even an honest witness may not have been
01:06:26 20 able to see or hear what was happening and may make a
21 mistake.

22 Two. How good did the witness's memory seem to be?
23 Did the witness seem able to accurately remember what
24 happened?

01:06:38 25 Three. Was there anything else that may have

1 interfered with the witness's ability to perceive or
2 remember the events?

3 Four. How did the witness act while testifying? Did
4 the witness appear honest? Or did the witness appear to be
01:06:54 5 lying?

6 Five. Did the witness have any relationship to the
7 government or the defendant or anything to gain or lose from
8 the case that might influence his or her testimony?

9 Six. Did the witness have any bias or prejudice or
01:07:13 10 reason for testifying that might cause the witness to lie or
11 to slant the testimony in favor of one side or the other?

12 Seven. Did the witness testify inconsistently on the
13 stand or did the witness say or do something or failed to
14 say or do something at any other time that is inconsistent
01:07:34 15 with what the witness said while testifying?

16 If you believe the witness was inconsistent, ask
17 yourself if this makes the witness's testimony less
18 believable. Sometimes it may. Other times it may not.
19 Also consider whether the inconsistency was about something
01:07:53 20 important or about some unimportant detail. Ask yourself if
21 it seemed like an innocent mistake or if it seemed
22 deliberate.

23 Eight. Finally, ask yourself how believable the
24 witness's testimony was in light of all the other evidence.
01:08:10 25 Was the testimony supported or contradicted by other

1 evidence that you found believable? If you believe that a
2 witness's testimony was contradicted by other evidence,
3 remember that people sometimes forget things and even two
4 honest people who witness the same event may not describe it
01:08:28 5 exactly the same way.

6 These are only some of the things that you may
7 consider in deciding how believable each witness was. You
8 may also consider other things that you think shed some
9 light on the witness's believability. Use your common
01:08:45 10 sense, your everyday experience in dealing with other
11 people. And then decide what testimony you believe and how
12 much weight you think it deserves.

13 Number of witnesses.

14 One more point about witnesses. Sometimes jurors
01:09:00 15 wonder if the number of witnesses who testified makes any
16 difference.

17 Do not make any decision based only on the number of
18 witnesses who testified. What is more important is how
19 believable the witnesses were and how much weight you think
01:09:19 20 their testimony deserves. Concentrate on that, not the
21 numbers.

22 Lawyers' objections.

23 There's one more general subject I want to talk to you
24 about before I begin explaining the elements of the crime
01:09:32 25 charged.

1 The lawyers for both sides objected to some of the
2 things that were said or done during the trial. Do not hold
3 that against either side. The lawyers have a duty to object
4 whenever they think that something is not permitted by the
01:09:47 5 rules of evidence. Those rules are designed to make sure
6 that both sides receive a fair trial.

7 Also, do not interpret my rulings on their objections
8 as any indication of how I think the case should be decided.
9 My rulings were based on the rules of evidence, not on how I
01:10:05 10 feel about the case. Remember your decision must be based
11 only on the evidence that you saw and heard here in court.

12 Stipulations.

13 Statements and arguments of counsel are not evidence
14 in the case. However, if the attorneys on both sides
01:10:23 15 stipulate or agree to the existence of a fact, you may
16 accept this fact as having been proven. You are not
17 required to do so, however, as it is up to you to determine
18 what proof you will accept.

19 Ladies and gentlemen, there have been a number of
01:10:39 20 stipulations. They are in writing. They'll be submitted to
21 you in the jury room. So you'll have them with you.

22 Defining the crime and related matters.

23 That concludes the part of my instructions explaining
24 your duties and the general rules that apply in every
01:10:56 25 criminal case. In a moment I will explain the elements of

1 the crimes that the defendant is accused of committing.

2 But before I do that, I want to emphasize that the
3 defendant is only on trial for the particular crimes charged
4 in the indictment. Your job is limited to deciding whether
01:11:16 5 the government has proved the crimes charged.

6 Separate consideration, single defendant charged with
7 two crimes.

8 The defendant has been charged with two crimes. The
9 number of charges is no evidence of guilt and this should
01:11:35 10 not influence your decision in any way. It is your duty to
11 separately consider the evidence that relates to each charge
12 and to return a separate verdict for each one. For each
13 charge, you must decide whether the government has presented
14 proof beyond a reasonable doubt that the defendant is guilty
01:11:53 15 of that particular charge.

16 Your decision on one charge, whether it is guilty or
17 not guilty, should not influence your decision on any of the
18 other charges, or in this case, the other charge.

19 Nature of the offenses.

01:12:10 20 General allegations applicable to both counts in the
21 indictment.

22 At all times relevant to the indictment, the
23 government alleges as follows:

24 Erick Jamal Hendricks was a citizen of the United
01:12:25 25 States.

1 Amir Al-Ghazi, a coconspirator, not charged herein,
2 was located within the Northern District of Ohio.

3 An undercover law enforcement employee, Agent Steven
4 Jane, was located within the Northern District of Ohio.

01:12:42 5 The Islamic State of Iraq and the Levant, hereinafter
6 ISIL, was a designated foreign terrorist organization under
7 Section 219 of the Immigration and Nationality Act and a
8 Specially Designated Global Terrorist Entity under Section
9 1(b) of Executive Order 13224.

01:13:10 10 Throughout this matter, the parties and the Court have
11 interchangeably used the acronyms ISIL and ISIS to refer to
12 this organization. For all intents and purposes, you should
13 consider both acronyms as fully interchangeable.

14 Charges set forth in the indictment.

01:13:32 15 Defendant Erick Jamal Hendricks is charged with one
16 count of conspiracy to provide material support and
17 resources to a foreign terrorist organization in violation
18 of Title 18, United States Code, Section 2339B(a) (1), and
19 one count of attempting to provide material support and
01:13:58 20 resources to a foreign terrorist organization, in violation
21 of Title 89 -- Title 18, excuse me, United States Code,
22 Section 2339B(a) (1).

23 The defendant has pleaded not guilty to the charges.

24 The indictment charges the offenses as follows:

01:14:17 25 Count 1.

1 From on or about December 1, 2014, through on or about
2 May 31, 2015, in the Northern District of Ohio, Eastern
3 Division and elsewhere, Defendant Erick Jamal Hendricks, a
4 citizen of the United States, and others known and unknown
01:14:38 5 to the grand jury, knowingly did combine, conspire,
6 confederate and agree to provide material support and
7 resources as that term is defined in Title 18, United States
8 Code, Section 2339A(b), including personnel and services to
9 a foreign terrorist organization, namely the Islamic State
01:15:05 10 of Iraq and the Levant, hereinafter ISIL, which at all
11 relevant times was designated by the Secretary of State as a
12 foreign terrorist organization pursuant to Section 219 of
13 the Immigration and Nationality Act, knowing that ISIL was a
14 designated foreign terrorist organization and that ISIL
01:15:27 15 engages in and has engaged in terrorist activity and
16 terrorism.

17 Object of the conspiracy.

18 The objects of the conspiracies were to, number one,
19 recruit individuals in the United States to form a cell of
01:15:45 20 ISIL supporters.

21 Number two, train individuals recruited for the cell
22 of ISIL supporters to commit acts of violence in the United
23 States on behalf of the ISIL; and

24 Three, commit acts of violence in the United States on
01:16:01 25 behalf of ISIL.

1 Manner and means of the conspiracy.

2 To attain the objects of the conspiracy, defendant and
3 his coconspirators took the following steps and employed the
4 following manner and means as part of the conspiracy:

01:16:18 5 A, defendant used social media applications to
6 communicate with individuals known and unknown to the grand
7 jury, including Amir Al-Ghazi, who appeared to support ISIL.

8 B, defendant vetted individuals he communicated with
9 to determine if they were suitable for joining a cell of
01:16:38 10 ISIL supporters.

11 C, defendant vetted individuals he communicated with
12 to determine if they were working on behalf of the law
13 enforcement.

14 D, defendant directed individuals he had previously
01:16:52 15 vetted to vet other potential recruits through
16 communications on social media applications.

17 E, defendant provided advice to individuals he
18 recruited for his cell about methods of avoiding detection
19 by law enforcement, including methods to safely communicate
01:17:13 20 using social media applications and to conduct
21 counter-surveillance of law enforcement.

22 F, defendant attempted to conceal his communications
23 with potential recruits from possible law enforcement
24 surveillance.

01:17:27 25 G, defendant directed individuals such as Amir

1 Al-Ghazi, and others known and unknown, to connect defendant
2 to other like-minded individuals for recruitment by
3 defendant.

4 H, defendant distributed documents to recruits that
01:17:43 5 provided advice on how to avoid law enforcement detection.

6 I, defendant provided suggestions to recruits about
7 materials they should read, including lectures by Anwar
8 Al-Awlaki, and materials that contained bomb-making
9 instructions and information on law enforcement surveillance
01:18:05 10 methods.

11 J, defendant attempted to purchase land to be used for
12 training in military tactics for members of the cell he was
13 recruiting.

14 K, defendant met in person with potential recruits to
01:18:19 15 discuss the creation of a cell to conduct attacks in the
16 United States on behalf of ISIL.

17 L, defendant claimed that he obtained guidance from
18 senior brothers in ISIL.

19 M, defendant suggested that Agent Steven Jane travel
01:18:37 20 to Garland, Texas, to a contest for drawing the Prophet
21 Muhammad.

22 N, defendant asked Agent Steven Jane about security
23 measures at the contest for drawing the Prophet Muhammad in
24 Garland, Texas.

01:18:56 25 And O, defendant caused a document to be posted online

1 that claimed Islamic State in America committed the attack
2 at the Garland, Texas contest for drawing the Prophet
3 Mohammad and warned of future attacks.

4 Count 2 alleges that from on or about December 1,
01:19:17 5 2014, through on or about May 31, 2015, in the Northern
6 District of Ohio, Eastern Division, and elsewhere, Defendant
7 Erick Jamal Hendricks, a citizen of the United States, did
8 knowingly attempt to provide material support and resources,
9 as that term is defined in Title 18, United States Code,
01:19:40 10 Section 2339A(b), including personnel, specifically himself,
11 Amir Al-Ghazi, Agent Steven Jane, and others, and services,
12 to a foreign terrorist organization, namely Islamic State of
13 Iraq and the Levant, which at all times relevant was
14 designated by the Secretary of State as a foreign terrorist
01:20:08 15 organization pursuant to Section 219 of the Immigration and
16 Nationality Act, knowing that ISIL was a designated foreign
17 terrorist organization and that ISIL engages in and has
18 engaged in terrorist activity and terrorism.

19 Statute defining the offense in Counts 1 and 2.

01:20:29 20 Section 2339B(a) (1) of Title 18 of the United States
21 Code provides that whoever knowingly provides material
22 support or resources to a foreign terrorist organization, or
23 attempts or conspires to do so, be guilty of a crime.

24 To violate this paragraph, a person must have
01:20:54 25 knowledge that the organization is a designated terrorist

1 organization, and that the organization has engaged or
2 engages in terrorist activity, or that the organization has
3 engaged or engages in terrorism.

4 Elements of Count 1. Conspiracy to provide material
01:21:13 5 support and resources to a foreign terrorist organization.

6 The defendant is charged in Count 1 of the indictment
7 with conspiracy to provide material support and resources to
8 a foreign terrorist organization. In order for the
9 defendant to be found guilty of this crime, the government
01:21:37 10 must approach each of the following elements beyond a
11 reasonable doubt.

12 First, from on or about December 1, 2014, through on
13 or about May 31, 2015, two or more persons reached an
14 agreement or came to an understanding to provide material
01:21:57 15 support or resources to a designated foreign terrorist
16 organization, namely the Islamic State of Iraq and the
17 Levant, ISIL, also known as the Islamic State of Iraq and
18 Syria, ISIS, al-Qa'ida in Iraq and the Islamic State.

19 Second, that the defendant became a member of the
01:22:22 20 conspiracy knowing of its object and intending to help
21 accomplish it.

22 Third, at the time the defendant knew that ISIL was a
23 designated foreign terrorist organization or had engaged or
24 was engaging in terrorist activity or terrorism, and;

01:22:40 25 Four, the defendant is a national of the United States

1 or the offense occurred in whole or in part within the
2 United States, or the offense occurred in or affecting
3 interstate or foreign commerce.

4 Detailed instructions on the elements of the crimes
01:22:58 5 charged.

6 Next I will give you more detailed instructions on
7 some of these elements. However, if you are convinced that
8 the government has proved all of the above elements, taking
9 into consideration the definitions provided below, say so by
01:23:14 10 returning a guilty verdict on this charge.

11 If you have any reasonable doubt about any one of
12 these elements, then you must find the defendant not guilty
13 of this charge.

14 Conspiracy.

01:23:30 15 Count 1 of the indictment charges a conspiracy crime.
16 I shall now discuss with you briefly the law related to
17 conspiracies.

18 Agreement.

19 With regard to the first element, a criminal
01:23:42 20 agreement, the government must prove that two or more
21 persons conspired, or agreed, to cooperate with each other
22 to commit the crime of providing material support or
23 resources to a designated foreign terrorist organization,
24 namely ISIL.

01:23:58 25 This does not require proof of any formal agreement,

1 written or spoken, nor does this require proof that everyone
2 involved agreed on all the details. But proof that people
3 simply met together from time to time and talked about
4 common interests or engaged in similar conduct is not enough
01:24:18 5 to establish a criminal agreement.

6 These are things that you may consider in deciding
7 whether the government has proved an agreement. But without
8 more, they are not enough.

9 What the government must prove is that there was a
01:24:33 10 mutual understanding, either spoken or unspoken, between two
11 or more people, to cooperate with each other to commit the
12 crime of providing material support or resources to a
13 designated foreign terrorist organization, namely ISIL.
14 This is essential.

01:24:51 15 An agreement can be proved indirectly, by facts and
16 circumstances which lead to a conclude that an agreement
17 existed. But it is up to the government to convince you
18 that such facts and circumstances existed in this particular
19 case.

01:25:12 20 Defendant's connection to the conspiracy.

21 If you are convinced that there was a criminal
22 agreement, then you must decide whether the government has
23 proved that the defendant knowingly and voluntarily joined
24 that agreement. To convict the defendant, the government
01:25:29 25 must prove that he knew the conspiracy's main purpose, that

1 he voluntarily joined it, intending to help advance or
2 achieve its goals.

3 This does not require proof that a defendant knew
4 everything about the conspiracy, or everyone else involved,
01:25:45 5 or that he was a member of it from the very beginning. Nor
6 does it require proof that a defendant played a major role
7 in the conspiracy, or that his connection to it was
8 substantial. A slight role or connection may be enough.

9 But proof that a defendant simply knew about a
01:26:03 10 conspiracy, or was present at times or associated with
11 members of the group, is not enough, even if he approved of
12 what was happening or did not object to it.

13 Similarly, just because a defendant may have done
14 something that happened to help a conspiracy does not
01:26:20 15 necessarily make him a conspirator. These are all things
16 that you may consider in deciding whether the government has
17 proved that a defendant joined a conspiracy. But without
18 more, they are not enough.

19 A defendant's knowledge can be proved indirectly by
01:26:39 20 facts and circumstances which lead to a conclusion that he
21 knew the conspiracy's main purpose. But it is up to the
22 government to convince you that such facts and circumstances
23 existed in this particular case.

24 Unindicted, unnamed, or separately tried
01:26:57 25 coconspirators.

1 Now, some of the people who may have been involved in
2 these events are not on trial.

3 This does not matter. There's no requirement that all
4 members of a conspiracy be charged and prosecuted or tried
01:27:12 5 together in one proceeding.

6 Nor is there any requirement that the names of the
7 other conspirators be known. An indictment can charge a
8 defendant with a conspiracy involving people whose names are
9 not known, as long as the government can prove that the
01:27:28 10 defendant conspired with one or more of them. Whether they
11 are named or not does not matter.

12 Venue.

13 Now, some of the events that you have heard about
14 happened in other places. There's no requirement that the
01:27:43 15 entire conspiracy take place here in the Northern District
16 of Ohio. But for you to return a guilty verdict on the
17 conspiracy charge, the government must convince you that
18 either the agreement or one of the acts in furtherance took
19 place here in the Northern District of Ohio.

01:28:01 20 Unlike all of the other elements that I have
21 described, this is just a fact that the government only has
22 to prove by a preponderance of the evidence. This means the
23 government only has to convince you that it is more likely
24 than not that part of the conspiracy took place here.

01:28:18 25 Remember that all the other elements I have described

1 must be proved beyond a reasonable doubt.

2 Elements of Count 2, attempting to provide material
3 support and resources to a foreign terrorist organization.

4 The defendant is charged in Count 2 of the indictment
01:28:39 5 with attempting to provide material support and resources to
6 a foreign terrorist organization, namely the Islamic State
7 of Iraq and the Levant, also known as the Islamic State of
8 Iraq and Syria, ISIS, al-Qa'ida in Iraq, and the Islamic
9 State.

01:28:57 10 In order for the defendant to be found guilty of this
11 crime, the government must prove each of the following
12 elements beyond a reasonable doubt:

13 First, that the defendant attempted to provide
14 material support or resources to a foreign terrorist
01:29:14 15 organization.

16 Second, that the defendant knew or intended that the
17 support or resources was going to the organization commonly
18 known as ISIL.

19 Third, at the time the defendant knew that ISIL was a
01:29:29 20 designated foreign terrorist organization or had engaged or
21 was engaging in terrorist activity or terrorism.

22 And fourth, the defendant is a national of the United
23 States, or the offense occurred in whole or in part within
24 the United States, or the offense occurred in or affecting
01:29:48 25 interstate or foreign commerce.

1 A defendant may be found guilty of an attempt if he
2 intended to provide material support to a designated foreign
3 terrorist organization and voluntarily and intentionally
4 carried out some act which was a substantial step toward
01:30:07 5 that crime.

6 A substantial step must be something more than mere
7 preparation, yet may be less than the last act necessary
8 before the actual commission of the substantive crime.

9 In order for behavior to be punishable as an attempt,
01:30:24 10 it need not be incompatible with innocence, yet it must be
11 necessary to the consummation of the crime and be of such a
12 nature that a reasonable observer, viewing it in context,
13 could conclude beyond a reasonable doubt that it was
14 taken -- or it was undertaken in accordance with a design to
01:30:46 15 violate the statute.

16 Relevant definitions.

17 As I noted above, the government must prove beyond a
18 reasonable doubt that the defendant knowingly conspired or
19 attempted to provide material support or resources to a
01:31:02 20 foreign terrorist organization.

21 Here, the government has alleged that the material
22 support included personnel, specifically the defendant
23 himself, Amir Al-Ghazi, Agent Steven Jane, and others, and
24 services to a foreign terrorist organization, namely ISIL,
01:31:22 25 which at all relevant times was designated by the Secretary

1 of State as a foreign terrorist organization.

2 Material support or resources.

3 The term "material support or resources" means any
4 property, tangible or intangible, or service, including
01:31:40 5 currency or monetary instruments or financial securities,
6 financial services, lodging, training, expert advice or
7 assistance, safe houses, false documentation or
8 identification, communications equipment, facilities,
9 weapons, lethal substances, explosives, personnel, and
01:32:07 10 transportation, but does not include medicine or religious
11 materials.

12 Training.

13 The term "training" means instruction or teaching
14 designed to impart a specific skill, as opposed to general
01:32:21 15 knowledge.

16 Expert advice and/or assistance.

17 The term "expert advice or assistance" means advice or
18 assistance derived from scientific, technical, or other
19 specialized knowledge.

01:32:35 20 Personnel.

21 The term "personnel" means one or more persons, which
22 can include the defendant's own person. However, no person
23 can be convicted for a violation of this statute in
24 connection with providing personnel unless that person has
01:32:52 25 knowingly attempted to provide a foreign terrorist

1 organization with one or more individuals, who may include
2 the defendant, to work under that terrorist organization's
3 direction or control or to organize, manage, supervise, or
4 otherwise direct the operation of that organization.

01:33:15 5 Individuals who act entirely independently of the
6 foreign terrorist organization to advance its goals or
7 objectives are not considered to be working under the
8 foreign terrorist organization's direction and control.

9 Foreign terrorist organization.

01:33:32 10 The term "foreign terrorist organization" has a
11 particular meaning under this statute. In order for an
12 organization to qualify as a foreign terrorist organization,
13 the organization must have been designated by such -- or as
14 such by the Secretary of State through a process established
01:33:53 15 by law and have been designated at the time the crime
16 occurred.

17 Knowingly.

18 For an alternate to act "knowingly" means that he
19 realized that what he was doing and was aware of the nature
01:34:08 20 of his conduct, and did not act through ignorance, mistake,
21 or accident.

22 Additional relevant definitions.

23 The government must prove beyond a reasonable doubt
24 that, in conspiring to provide or in attempting to provide
01:34:24 25 material support or resources to a designated terrorist

1 organization, the defendant knew that the organization was a
2 designated terrorist organization or that the organization
3 had engaged or was engaging in terrorist activity or
4 terrorism.

01:34:40 5 Specifically, the government must prove that at the
6 time the defendant conspired or attempted to provide the
7 material support or resources in question, he knew that they
8 would be provided to ISIL.

9 Further, you must find beyond a reasonable doubt
01:35:00 10 either that the defendant knew that ISIL had been designated
11 by the United States government as a foreign terrorist
12 organization, or that he knew that the organization had
13 engaged or was engaging in terrorist activity or terrorism.

14 Terrorist activity.

01:35:17 15 The term "terrorist activity" means any activity which
16 is unlawful under the laws of the place where it is
17 committed, or which, if it had been committed in the United
18 States, would be unlawful under the laws of the United
19 States or any state, and which involves any of the
01:35:34 20 following:

21 The highjacking or sabotage of any conveyance,
22 including an aircraft, vessel or vehicle, the seizing or
23 detaining and threatening to kill, injure, or continue to
24 detain another individual in order to compel a third person,
01:35:53 25 including a governmental organization, to do or abstain from

1 doing any act as an explicit or implicit condition for the
2 release of the individual seized or detained; a violent
3 attack upon an internationally protected person or upon the
4 liberty of such a person; an assassination; the use of any
01:36:15 5 biological agent, chemical agent or nuclear weapon or device
6 or explosive, firearm, or other weapon or dangerous device,
7 other than for mere personal monetary gain, with intent to
8 danger, did -- or endanger, directly or indirectly, the
9 safety of one or more individuals or to cause substantial
01:36:39 10 damage to property; or a threat, attempt, or conspiracy to
11 do any of the foregoing.

12 Engage in terrorist activity.

13 The term "engage in terrorist activity" means in an
14 individual capacity or as a member of an organization, to
01:36:57 15 commit or to incite to commit, under circumstances
16 indicating an intention to cause death or serious bodily
17 injury, a terrorist activity; to prepare or plan a terrorist
18 activity; to gather information on potential targets for
19 terrorist activity; to solicit funds or other things of
01:37:18 20 value for a terrorist activity or a terrorist organization.

21 Terrorism.

22 The term "terrorism" means premeditated politically
23 motivated violence perpetrated against noncombatant targets
24 by subnational groups or clandestine agents.

01:37:41 25 National of the United States.

1 The term "national of the United States" means, A, a
2 citizen of the you had, or B, a person who, though not a
3 citizen of the United States, owes permanent allegiance to
4 the you had.

01:37:55 5 Interstate commerce.

6 The term "interstate commerce" includes commerce
7 between one state, territory, possession, or the District of
8 Columbia and another state, territory, possession or the
9 District of Columbia.

01:38:11 10 Foreign commerce.

11 "Foreign commerce" means commerce with a foreign
12 country.

13 Inferring required mental state.

14 Ordinarily, there's no way that a defendant's state of
01:38:24 15 mind can be proved directly because no one can read another
16 person's mind and tell what that person is thinking.

17 But a defendant's state of mind can be proved
18 indirectly from the surrounding circumstances. This
19 includes things like what the defendant said, what the
01:38:42 20 defendant did, how the defendant acted, and any other facts
21 or circumstances in evidence that show what was in the
22 defendant's mind.

23 You may also consider the natural and probable results
24 of any acts that the defendant knowingly did or did not do,
01:39:00 25 and whether it is reasonable to conclude that the defendant

1 intended those results. This, of course, is all for you to
2 decide.

3 On or about, explained.

4 Next, I want to say a word about the dates mentioned
01:39:16 5 in the indictment. The indictment charges that the crimes
6 happened on or about certain days. The government does not
7 have to prove that all the crimes happened on those days.
8 But the government must prove that the crime happened
9 reasonably close to those days.

01:39:32 10 Consideration of testimony and evidence.

11 Next I will explain some of the rules that you must
12 use in considering some of the testimony and evidence.

13 Defendant's election not to testify or present
14 evidence.

01:39:47 15 A defendant has an absolute right not to testify or
16 present evidence. The fact that he did not testify or
17 present any evidence cannot be considered by you in any way.
18 Do not even discuss it in your deliberations.

19 Remember that it is up to the government to prove the
01:40:09 20 defendant guilty of beyond a reasonable doubt. It is not up
21 to the defendant to prove that he is innocent.

22 Witnesses testifying to both facts and opinions.

23 You have heard the testimony of Dr. Lorenzo Vidino,
24 Special Agent Steven Jane, and Amy Vaughan, who testified to
01:40:31 25 both facts and opinions. Each of these types of testimony

1 should be given the proper weight.

2 As to the testimony on facts, consider the factors I
3 discussed earlier in these instructions for weighing the
4 credibility of witnesses.

01:40:49 5 As to the testimony on opinions, you do not have to
6 accept the opinions of Dr. Vidino or Special Agent Jane or
7 Ms. Amy Vaughan.

8 In deciding how much weight to give an opinion, you
9 should consider the witness's qualifications and how he or
01:41:06 10 she reached their conclusions, along with other factors
11 discussed in these instructions for weighing the credibility
12 of witnesses.

13 Remember that you alone decide how much of a witness's
14 testimony to believe and how much weight it deserves.

01:41:25 15 Testimony of law enforcement officials.

16 The testimony of a law enforcement official is
17 entitled to no special or exclusive sanctity. An officer
18 who takes the witness stand subjects his or her testimony to
19 the same examination and the same tests that any other
01:41:46 20 witness does, and in the case of law enforcement officials,
21 you should not believe them merely because they are in law
22 enforcement.

23 You should recall their demeanor on the stand, their
24 manner of testifying, the substance of their testimony and
01:42:04 25 weigh and balance it just as carefully as you would the

1 testimony of any other witness.

2 People employed by the government, including law
3 enforcement officials, do not stand in any higher station in
4 the community than other persons, and their testimony is not
01:42:19 5 entitled to any greater weight.

6 Ladies and gentlemen, this conclusion my preliminary
7 instructions. You will now hear the closing arguments of
8 counsel, and thereafter, I will give you a much briefer set
9 of instructions about your conduct during the course of
01:42:39 10 deliberations.

11 As I've indicated, you will now hear the closing
12 arguments of counsel. The procedure for closing arguments
13 is as follows:

14 First, the government will present its closing
01:42:49 15 argument. Once the government's closing argument, initial
16 closing argument is presented, we will take a break.

17 Second, counsel for the defendant will present his
18 closing argument.

19 Finally, the government will be given an opportunity
01:43:04 20 to present rebuttal arguments in response to the closing
21 argument of the defendant.

22 Like opening statements, closing arguments are not
23 evidence. They are permitted for the sole purpose of aiding
24 you, the jury, in analyzing the evidence.

01:43:20 25 After the parties make their closing arguments, you'll

1 retire to the jury room and begin your deliberations.

2 At this time, counsel for the government, you may
3 proceed with your closing argument.

4 Ladies and gentlemen of the jury, for your
01:43:32 5 understanding, I've allocated for each side no more than one
6 hour for closing argument, or thereabouts.

7 The government may reserve as much time as it likes of
8 its hour. And we will, again, take a break after the
9 government presents its initial portion of the closing
01:43:50 10 argument.

11 Counsel, you may proceed.

12 MR. SHEPHERD: Thank you, Your Honor.

13 Good morning, ladies and gentlemen.

14 JURORS: Good morning.

01:43:59 15 MR. SHEPHERD: At its core, this case is about
16 the defendant's efforts to recruit a cell of ISIS supporters
17 to extend the Islamic State or ISIS to the United States, to
18 train them, to get land for them, commit attacks within the
19 United States.

01:44:15 20 And from the testimony and the evidence, you heard
21 from the defendant's own communications what his ultimate
22 role in this was.

23 Every team has a recruiter brother. That was the
24 defendant. The recruiter. And the team he's talking about
01:44:34 25 is that cell of ISIS supporters in the United States.

1 And the evidence and the testimony showed you that he
2 met -- he attempted to perform this recruiting role online,
3 in person, and through the spread of propaganda, all on
4 behalf of the Islamic State.

01:44:56 5 Now, this morning, as I try to pull all this evidence
6 together for you, there's going to be three broad topics
7 that I deal with.

8 First, I'll talk briefly about the elements that the
9 Judge just explained to you.

01:45:08 10 Then most of my time will probably be spent on what
11 really seems to be the biggest issue in this case, identity.
12 Proving that the defendant was the person behind all of
13 these communications from the evidence you heard.

14 And then after we show how the evidence proves he was
01:45:24 15 that person, I'm going to talk to you about the conduct in
16 this case and how it fits into the charges.

17 So first, the first count, conspiracy. Up on the
18 screen are the elements that the Judge just read with a few
19 summaries. But the key is in that first part, the
01:45:41 20 agreement.

21 In this case, the evidence shows that the defendant
22 entered into an agreement. As the judge explained, it
23 doesn't have to be a formal contract. It doesn't have to be
24 something written down, or a formal handshake. But from all
01:45:53 25 the facts and circumstances, you can determine that the

1 defendant was part of an agreement to commit these offenses.

2 And who did he conspire with? Well, he conspired with
3 senior brothers of ISIS. In the communications, he talks
4 about being touch with senior brothers.

01:46:10 5 He conspired with the other individuals that he refers
6 to in the communications who were part of this cell that he
7 says he already has.

8 So it's unnamed people.

9 And now the unnamed people he also conspired with.
01:46:24 10 You heard from Amir Al-Ghazi who in talking with him said he
11 agreed to send him the name of another person as a further,
12 future recruit. That's conspiracy there, that sending of
13 the name for that purpose, an agreement for that plan,
14 that's part of the conspiracy.

01:46:38 15 His wife, Tyrinda Hendricks, who wrote the GPS for the
16 Ghuraba document, another coconspirator, who went with him
17 twice to meet in person with potential recruits.

18 First, Janet Miller in Baltimore in March, and then
19 Hamza Ansari in Baltimore in May.

01:46:56 20 And there's other individuals you can pick out from
21 the evidence. Those are just a few of the examples to show
22 that he was conspiring, he was part of this agreement.

23 A couple other facts here, just to quickly point out.

24 So one of the elements has to do with showing that the
01:47:11 25 defendant knew that ISIL was a designated foreign terrorist

1 organization or was engaging in terrorist activity or
2 terrorism.

3 And from the evidence that should be apparent. All
4 the talk of martyrdom, all the talk of, "Well, we'll go to
01:47:26 5 jail or be -- go to our graves." Those communications. The
6 clandestine nature of how he communicated, showing that how
7 he knows that in the support for ISIS, there's something
8 illegal about it.

9 The involvement with sending somebody to the Garland
01:47:43 10 attack and then afterwards training to take credit for it
11 the. Manuals that suggest or provides to people that
12 include evidence or include advice on how to build bombs,
13 advice on what to do if law enforcement comes.

14 What this shows is that the defendant knows that ISIS
01:47:58 15 is about violence and terrorism and it meets that element.

16 And then finally, there's really no dispute about this
17 taking place in the United States. All the testimony you
18 heard, the defendant's actions were in the United States.
19 Also he lives in the United States. So there's really no
01:48:15 20 dispute about that last part.

21 And then Count 2, the attempt. Again, the key here is
22 attempt. And when we are talking attempt, as the judge
23 explained, it's about intent plus those substantial steps.

24 And here the indictment, as you heard, charges that he
01:48:30 25 attempted to recruit members for ISIS such as the undercover

1 officer, Steven Jane, and Amir Al-Ghazi. All those
2 communications with him, those specific communications
3 asking for specific things are taking this kind of case,
4 this recruitment, into the element of substantial steps
01:48:46 5 towards accomplishing his goal, as opposed to just idle
6 chatter in a bar or idle chatter online. He starts asking
7 for specific things, for them to do specific things.

8 And for Officer Jane, or Agent Jane, the most specific
9 is he directs him to actually travel to Garland, Texas.
01:49:07 10 That's a very specific substantial step.

11 Those are just a few follow-ups on the elements. Now
12 let's get into what's probably most important for you to
13 decide. The identity of the defendant as the person who's
14 behind all of this.

01:49:19 15 So during the course of this trial, you heard evidence
16 about all sorts of online communication accounts and names.
17 On Twitter, sham_reason, abuc commander, sahabahtimesnow,
18 UmmahOneLove, on Wickr names such as hereafter,
19 hidingmyrights, accepted, and so forth.

01:49:40 20 On Surespot, names such as WillayaTX and lovethehaqq.
21 And terwatch.

22 So we went through all of these different names. And
23 what they all have in common is that it was the defendant
24 who was using them.

01:49:56 25 So here is what we're going to talk about, how the

1 evidence overwhelmingly shows that.

2 We're going to start with the most important piece.
3 The in-person meeting on May 2, 2015.

4 We're going to talk about how these accounts are
01:50:11 5 common among these different users and witnesses you heard
6 from and how they transitioned.

7 We will talk about the IP address analysis, the common
8 phrases that show it's the same person communicating. Then
9 some specific facts that really corroborate everything else,
01:50:28 10 like how he set his own step-daughter up with one of the
11 informants in this case.

12 This charlesmaydot.com Email, which I'll come back to
13 in a little bit to explain its important, that he traveled
14 to look for off-the-grid land, and that he had spotted
01:50:43 15 surveillance in May of 2015.

16 So on May 1, 2015, accepted is texting Hamza
17 Al-Ansari. The purpose of that communicating on Wickr,
18 accepted is the account. The purpose of those
19 communications is to set up a meeting the next day in
01:51:08 20 Baltimore.

21 And you can see from what's highlighted here, there's
22 communications about going to Baltimore.

23 And about coming tomorrow.

24 And, further, there's further details through some of
01:51:21 25 these communications about specific times coming from

1 accepted, and even locations, like about doing breakfast in
2 the morning. Then there's talk about a restaurant that
3 follows.

4 And ultimately what happens?

01:51:33 5 On May 2, 2015, the defendant shows up for the meeting
6 that's set up through this accepted account on Wickr with
7 Ansari.

8 The next day who comes to the meeting? The defendant.
9 And you know that because there's photographic evidence.
01:51:52 10 Mr. Ansari identified him in Court. You have a photo of
11 him, a couple close-ups. That's the defendant.

12 So that should be your baseline in determining
13 identity for all of this, is we know the defendant met with
14 Hamza Al-Ansari on May 2, 2015.

01:52:10 15 You also know that meeting was set up by the accepted
16 Wickr account, so thus, you know that the defendant was
17 using accepted.

18 And you corroborate that because the license plate of
19 the vehicle that he drove came back to Tyrinda Hendricks,
01:52:26 20 who also, you heard from the testimony, that his wife was
21 present. Well, the vehicle does come -- indeed, comes back
22 to Tyrinda Hendricks.

23 Confirmed, again, less than a month later when the
24 defendant and his wife Tyrinda are stopped in Georgia in the
01:52:43 25 same vehicle with the same plates and they're in the car.

1 So you know the defendant was there on May 2.

2 You also know that when he was there talking in
3 Baltimore, that that same day accepted is telling Steven
4 Jane, the undercover agent, that he's in Baltimore meeting
01:53:03 5 with their friend from Pennsylvania, which was a reference
6 to Ansari.

7 So what does that tell you? That tells you not just
8 that accepted is talking to Ansari. That tells you that
9 accepted is talking to Jane. And accepted is Erick
01:53:21 10 Hendricks.

11 So through this series of events, you know that Erick
12 Hendricks is accepted.

13 And once you know that Erick Hendricks is accepted,
14 and you know that Erick Hendricks is the person at that
01:53:34 15 meeting, all the other accounts you could follow forward or
16 follow backwards, and they must be the same person.

17 So you know that's a big fact for showing that Erick
18 Hendricks is the person who is on all of these accounts.

19 And some further communications here showing how they
01:53:56 20 referred -- accepted referred to the undercover to the
21 person in Pennsylvania.

22 So then moving on from that, there's all these
23 accounts in common with these individuals. So you heard
24 testimony from Special Agent Jane, Hamza Ansari, Amir
01:54:13 25 Al-Ghazi, Amanda Amaro, and Matthew Palmer who had all

1 communicated with accounts at issue in this case. And they
2 all talked about -- and you saw screen shots from the same
3 accounts.

4 There's this reference to this user name Abu Harb,
01:54:32 5 Amir Al-Ghazi, Steven Jane, Matthew Palmer who received the
6 communication saying "I'm Abu Harb."

7 That @sham_reason account. Same thing. Amir
8 Al-Ghazi, Steven Jane. They found the account through this
9 sham_reason Twitter account.

01:54:46 10 Matthew Palmer also received a message saying that the
11 person he was talking to used that account.

12 Abucommander. Steven Jane used that to set up some of
13 the communications. Hamza Ansari was told the person he was
14 talking to was abucommander. Hereafter was used by Jane and
01:55:06 15 Palmer. Nowhaq by Jane, Ansari and Palmer. Hidingmyrights,
16 by Jane and Ansari. Accepted, by Jane and Ansari.

17 Itsmehere, by Ansari. And according to her testimony,
18 Amanda Amaro, I'm going to come back to that. So remember
19 that.

01:55:24 20 And then dontcatch17, the last account we had, on
21 Wickr, used to communicate with both Steven Jane and Hamza
22 Al-Ansari.

23 An example of how this worked was with the
24 abucommander Twitter account that took it even a little bit
01:55:41 25 further. So Steven Jane, this is one of the accounts that

1 he had communicated with directly on Twitter, this helped
2 further user names for other communications. And
3 abucommander, as I said, had identified himself as being in
4 communication with Hamza Al-Ansari.

01:55:57 5 Well, the photo on the left is that photo that was
6 sent to the Nowhaq Wickr account. That photo of a guy in
7 the Middle East, it appears. Looks like some kind of
8 stocked photo.

9 Well, so that photo is sent on Wickr to the
01:56:12 10 undercover, and it's the same photo that's being used that's
11 the profile shot for the abucommander.

12 What are the odds that two different people pull out
13 same stocked photo of and -- of all the photos of guys in
14 the Middle Eastern garb in the world, they pull out the same
01:56:27 15 one? It's the type of coincidence in this case that isn't a
16 coincidence, it's corroboration, and this case is full of
17 them as we're going to see moving forward.

18 And then the transition. How did they change from
19 account to account?

01:56:42 20 You heard this happen in a couple different ways. A
21 lot of times it happened with the user saying a new account
22 is coming. Minutes later, there would be a new account,
23 sending a new communication to the undercover, or whoever it
24 was, and the conversation would continue.

01:56:58 25 There's also these user names typically, you heard

1 especially from the undercover agent, they're limited in who
2 has access to them.

3 These communications on encrypted applications like
4 Wickr and Surespot, they're being sort of held and only
01:57:18 5 provided to certain people. That's the nature of how this
6 is working frequently.

7 So part of the transitions and part of how you know
8 this is the same set of communications with the same person
9 is that these just aren't names that -- or user names that
01:57:32 10 could be pulled out of thin air.

11 You also knows that the continuity of the
12 conversations is occurring.

13 So conversations starts on, for example, when there's
14 an initial change between early on for the undercover, they
01:57:46 15 were talking about off the grid and what that meant. There
16 was a change in user name from I believe lovethahaqq to
17 cantdeny is what I think it was.

18 And in doing that, they pick up the conversation about
19 off the grid on the new account.

01:58:02 20 Well, you heard testimony that these aren't the types
21 of accounts where, if you were hacking into someone's
22 account or using someone else's account on a different
23 device, where you would have the previous conversation.

24 So the only way that you can continue a conversation
01:58:18 25 is if you were a part of it.

1 And then later, they used a code word system. The
2 undercover agent testified that they used this number 17 to
3 verify it was the same person. And later on used the image
4 of the crossbow from the -- one of the lectures he had been
01:58:35 5 referred to. And that shows that's the same person.

6 So as you look at these transitions, it's clear it's a
7 solid set of communications with the same person.

8 Then there's some technical stuff that sort of
9 corroborates this.

01:58:51 10 So the IP address analysis. The clearest is with the
11 sham_reason account. In early 2014, that account was logged
12 into from physical locations associated with both of the
13 defendant's Islamic wives, from Andrea Hansen's apartment
14 and a hotel where Tyrinda Hendricks was staying as a guest.

01:59:15 15 The two different Islamic wives. What's the common
16 denominator? It's Erick Hendricks. So what's the
17 reasonable inference on who is logging in when you have
18 log-ins from these two locations and there's one person who
19 is commonly affiliated with both? It's that Erick Hendricks
01:59:30 20 is the person doing that logging in.

21 And that's important because that's the account that
22 first contacted Amir Al-Ghazi. It's also the account that
23 Steven Jane first used to get in touch with him.

24 And then later, to show the continuity of this, at the
01:59:46 25 end, after the Garland attacks, when Agent Jane needed to

1 get back in touch with this person, what did he do? He
2 direct messaged sham_reason with his new Wickr account to
3 tell him how to contact him.

4 And then what happened? The person contacted him.

02:00:02 5 So that's very important corroboration in this IP
6 address analysis.

7 Similarly, there were log-ins at locations for
8 abuc commander and sahabahtimesnow affiliated with Andrea
9 Hansen and the defendant's mother, Linda Woods.

02:00:18 10 Now, we also had testimony about this chart. And I'm
11 not going to try to re-explain all of this other than to
12 make this point:

13 This shows from all these different accounts that are
14 affiliated with each other and with Erick Hendricks, what it
02:00:32 15 shows is that they're all connected. You can't -- this
16 isn't the type of set of connections that just appear
17 randomly out of thin air. They're all connected. And they
18 all support the conclusion that it was the defendant using
19 all of these accounts and the defendant who was behind them.

02:00:49 20 Something else that was consistent with the
21 defendant's behavior that you heard about from Amy Vaughan.

22 So throughout the text messages and the other
23 communications, there were -- there was advice given by the
24 person communicating to use TOR as a means to hide your
02:01:09 25 identity, and you heard what TOR was.

1 What's important, it's a way to hide where your IP
2 address comes back to, to prevent that type of analysis that
3 we were able to do with that sham_reason account.

4 And so what you heard also was that all of these
02:01:23 5 Twitter accounts were regularly using TOR. And so it's very
6 consistent with what the content of the communications was.

7 It's also important, this analysis done that out of a
8 thousands of exit nodes that TOR uses that you have all
9 these pairs of log-ons within minutes of each other of these
02:01:46 10 Twitter accounts.

11 And what that tells is you that it suggests that the
12 same person is doing those log-ins, and that these accounts
13 are all connected.

14 So the sum of all of the IP address analysis is it
02:01:59 15 corroborates that it was one person using all of these
16 accounts, and it corroborates it was the defendant was that
17 person.

18 Then let's talk about language. In your common
19 experience, you know people talk a certain way. When you're
02:02:15 20 communicating with someone, you might recognize the voice,
21 but you also recognize how they talk.

22 It could just be people like certain phrases. It
23 could be where they're from, all sorts of reasons.

24 And what you see throughout this case are the same
02:02:29 25 phrases, the same words, being used over and over again.

1 And what we're going to go through is just a sample of
2 some of these.

3 So there's this saying, "Tie our camels," which you
4 heard about. Yes, it's just some kind of Arabic proverb or
02:02:47 5 saying, but it's used all the time by the person
6 communicating.

7 So Special Agent Jane is told, "We must tie our
8 camels."

9 Al-Ansari is told, "Tie your camel. Tie your camel.
02:03:02 10 Trust in Allah."

11 Matthew Palmer is told, "I'm all about tying the
12 camel."

13 And even beyond that, even Amanda Amaro recalled in
14 her communications with the other person about The New Era
02:03:16 15 document, that the person who had told her to post it had
16 made a reference to "Tying our camels."

17 And that's in Exhibit 49, if you take a look, that you
18 can find that.

19 The brain to operate limbs.

02:03:28 20 There's this analogy about the brain and the limbs and
21 the body.

22 Well, it was most clearly in most detail used with the
23 undercover, Special Agent Jane, about each body having a
24 brain in order to operate the limbs.

02:03:42 25 And then at the meeting on May 2 that you know was

1 Erick Hendricks with Mr. Ansari, "We have to be the brain so
2 we have to get somebody to do the job."

3 On Wickr, with Matthew Palmer, again, "Like every
4 body, the body has to have a brain before it can function.
02:04:01 5 Bro and sis here need to develop the brain before the limbs
6 can make move. You dig."

7 Consistent phrasing.

8 Breaking up the -- the advice to break up Islamic
9 words.

02:04:14 10 He tells Special Agent Jane not to use Islamic terms
11 and don't use any Islamic terms without breaking up.

12 Mr. Ansari, "Try not to use Islamic words, even
13 breaking up Islamic without breaking them up. This is to
14 trick the trolls," and giving an example.

02:04:33 15 The Matthew Palmer, "Brother, don't use Islamic terms
16 without splitting them."

17 Also consistent request what Mr. Al-Ghazi testified to
18 and what was in his communications on Twitter about being
19 told when he set up a Chat Secure account, "Don't use
02:04:49 20 Islamic terms," that's why he called himself Bobby Mack
21 instead of an Islamic term. Very consistent.

22 Rules about when communicating with other brothers.
23 And this one is even more interesting, because what you have
24 is on April 8, 2015, the defendant, and at the end of this,
02:05:08 25 you should all agree it's the defendant, based on this

1 evidence, can't -- using cantdeny tells Special Agent Jane
2 to observe these rules when communicating with someone.
3 This is on April 8.

4 He then goes through and starts asking, "What's your
02:05:23 5 user name on Wickr?" And you may recall he first spelled it
6 wrong, Al for An without a Q, and then he later said it's al
7 Furqaan with a Q.

8 Well, at the same day, at the same time, Wickr
9 hereafter is telling Matthew Palmer the exact same advice as
02:05:42 10 he's telling him to communicate with this other person to
11 vet him out.

12 And when he goes through that chain of events, he
13 gives him the undercover's new user name, the al Furqaan.

14 So as you see, first Special Agent Jane, about
02:05:58 15 "Observe these rules, brother." And then the same advice is
16 given to Mr. Palmer about no personal details.

17 Even the same things are capitalized.

18 The obvious conclusion from that is that's the same
19 person talking to both people.

02:06:20 20 All this advice about "Get off the grid," to Special
21 Agent Jane, "Plan your life to get off the grid."

22 To Mr. Ansari at their meeting, "My advice for you to
23 to get off the grid."

24 To Mr. Palmer, "My advice to" -- I believe that's
02:06:39 25 brothers. It was just a misspelling where it says

1 brothers."

2 "Unplug yourself from the grid. That makes your moves
3 predictable."

4 Advice about counter-surveillance. Special Agent Jane
02:06:50 5 on April 8 encouraging the counter-surveillance and
6 misinformation, all going through this, you know, in-depth
7 advice about how to set up a fake, I guess, a storage
8 facility. And you may recall, "Do something suspicious and
9 set up a camera so you'll see then if the police come."

02:07:10 10 Well, similar advice to Mr. Ansari.
11 Counter-surveillance issues, saying, "Go in circles, circle
12 rounds and rounds, constantly watching my mirror."

13 To Matthew Palmer on Wickr, gives an example about
14 "Setting traps for them by pretending something they want to
02:07:28 15 know about is there," again, the same kind of advice, even
16 using some of the same language.

17 "We have land and we are building." Tells Special
18 Agent Jane, "We have land and are building. We are in need
19 of money and referrals."

02:07:42 20 In his meeting with Mr. Ansari, "We have weapons, we
21 have a little weapon," and then at the bottom, "We got a
22 little land."

23 On Surespot to Mr. Palmer, "We got land, house,
24 intentions."

02:07:57 25 Also, when Ms. Miller, Janet Miller met in person with

1 the defendant in March in Baltimore, that first meeting, she
2 also testified she was told that he had land.

3 Mr. Al-Ghazi, when he testified, explained that he was
4 told that there were brothers with land in Texas.

02:08:18 5 So now we're going to talk about the use of the phrase
6 "100 percent. Brother, 100 percent."

7 Telling Special Agent Jane, "If brothers are not 100
8 percent, then they are up the wrong street."

9 Telling Mr. Ansari, "Brother, I know you look 100, but
02:08:38 10 I must ask you a few questions."

11 Telling Matthew Palmer, "Curiosity matter, or are you
12 100 percent."

13 And then there's another one that was used twice that
14 is another example of this sort of odd phrases or odd
02:08:55 15 language to use to describe someone. During his meeting
16 with Mr. Ansari in person, he talks about having experience
17 with the big boys. He says, "I call them the initial boys,
18 the FBI, the FBI."

19 In your own sort of common experience, just think
02:09:11 20 about that kind of phrase, calling the FBI the initial boys.

21 And then that's used again in his communication
22 between user name itsme17 on Wickr after the Garland attack,
23 another reference to the initial boys reopening old cases.

24 Explanation that war is deception. In the meeting
02:09:32 25 with Mr. Ansari when they're talking about misinformation,

1 explains that "It's Halah, because the prophet said war is
2 deception."

3 He goes further and explains, "When we're
4 face-to-face, we don't lie to each other at all because
02:09:48 5 we're in this not to trick each other but to be brothers."
6 Same type of languages, very similar used with Special Agent
7 Jane previously, saying, "War is deception and all comes
8 contain information, but never face-to-face."

9 So you look at all of this language.

02:10:06 10 Once might be just be a coincidence. Twice must just
11 seem a little odd. But all of these examples, the logical
12 conclusion is it's the same person talking.

13 And in addition to that meeting, which clearly pointed
14 to Erick Hendricks, a few other facts that clearly point to
02:10:23 15 Erick Hendricks, after that meeting when he continues to
16 communicate with Hamza Al-Ansari, he tries to set him up
17 with his own step-daughter. And we know that. That's a
18 fact that goes directly to Erick Hendricks.

19 He sends this photo which you heard testimony was his
02:10:39 20 step-daughter.

21 He says, "It's my daughter."

22 Sends another photo. Gives her age, which is correct.

23 Gives her Email, which is correct.

24 And you heard the testimony from Jasmine Bevany that
02:10:53 25 this communication, this set-up, was arranged by her

1 stepfather, Erick Hendricks.

2 And as part of that, he made it clear, "Never leave
3 the path of jihad no matter how many children you have."

4 Then there's this charlesmaydot Email which is
02:11:15 5 related, but another fact that points directly to the
6 defendant.

7 It's an Email that on its face has nothing to do with
8 the defendant. Charles May, Erick Hendricks, who knows
9 what -- where the name came from, but what we do know is he
02:11:27 10 sent that Email to Hamza Al-Ansari. And then we know that
11 later when he gets pulled over, he's got a notebook in his
12 car with that same Email written down. That's a connection
13 to Erick Hendricks.

14 There's no other explanation for why Erick Hendricks
02:11:45 15 would have that Email in his possession if he wasn't the one
16 who sent it, the one who was using it.

17 Then we have this travel to visit land in the
18 southwest. This is relevant because early on in the
19 communications with Special Agent Jane, he had
02:12:03 20 posted -- Jane had posted on Twitter a picture of a tent in
21 the desert or something and there was criticism back and
22 both about, "Why did you post that. They can find your
23 location."

24 Then when the communication shifted to Surespot, they
02:12:18 25 started to talk about -- he started to get quizzed about

1 where that was.

2 And ultimately he's told, "I like that desert." And
3 the person says, "I was just through that way not long ago."

4 Further discussion about where it was. "Brother, I
02:12:33 5 believe that is either Arizona or New Mexico. Truly
6 Arizona, I think."

7 And then, "Anyway, I seen it because I was looking for
8 off-the-grid locations."

9 What we know is that Erick Hendricks, at the end of
02:12:47 10 2014, shortly before these communications would have
11 occurred, was traveling out that way getting directions to
12 visit off-the-grid locations to buy in New Mexico. We saw
13 pictures and you heard that testimony.

14 Again, a fact that points to the defendant as being
02:13:05 15 the user of all of these accounts.

16 And then the fact that he spotted surveillance.

17 So Steve Conley testified that he received text
18 messages and a call from Erick Hendricks in which he
19 complained he had spotted surveillance.

02:13:20 20 We also know that the user of these accounts, the
21 itsme17 account after Garland also complained about
22 surveillance being spotted. Saying I'm -- "More money is
23 needed. Our person is under surveil."

24 So, again, that's a fact that fits with the real
02:13:35 25 life -- the in-person Erick Hendricks spotting surveillance

1 is the same person complaining about it online.

2 All of those factors, all of that evidence, the
3 logical conclusion is that Erick Hendricks was the user of
4 those accounts, was the same person, and it was Erick
02:13:53 5 Hendricks.

6 Now, let's talk about some of the conduct and why it's
7 important.

8 The land -- efforts to purchase land in New Mexico and
9 California.

02:14:01 10 You heard testimony that Erick Hendricks reached out
11 to two different landowners to buy land in New Mexico, in
12 the middle of nowhere, and land in California in the middle
13 of nowhere.

14 That fits with all of the other testimony about having
02:14:17 15 land for military training, land to set up a compound to
16 train people.

17 And most importantly about the New Mexico land, what
18 did he ask the landowner? "Can you shoot guns there at
19 night?"

02:14:29 20 Why would that be important? If you're going to
21 conduct military training for possible nighttime operations,
22 that's what you may want to be able to do, shoot guns at
23 night.

24 So as we move in order in time to early 2015.

02:14:42 25 2015, March 19, we have the testimony from Janet

1 Miller about the meeting she had.

2 Again, identifies Erick Hendricks as the person at
3 that meeting along with his wife, Tyrinda, who was there.
4 Expresses support for the Islamic State. These are some of
02:14:58 5 the things he said.

6 Talked about recruiting, finding like-minded people.

7 Talked about training with guns, about getting land
8 for training, was really interested in any overseas contacts
9 you would have. It scared Miller so much she contacted the
02:15:13 10 FBI.

11 And as you'll recall, the testimony at that time was
12 that she was not working as an informant at that time. This
13 was before she was getting paid by anybody, before she had
14 signed up as an informant. She immediately contacted the
02:15:26 15 FBI because she was so frightened by the things that she had
16 heard from the defendant, all of which is consistent with
17 all of the other communications in this case.

18 And then you have Mr. Al-Ghazi and his communication
19 with Mr. Hendricks, again, consistent.

02:15:43 20 They start on Twitter, transition to a more secure.
21 Stated he was a recruiter. He would be willing to -- asked
22 if he would travel to Texas for his military training, if he
23 was willing to wage jihad on Kuffar was the testimony, asked
24 for information on other brothers, and Al-Ghazi then
02:16:01 25 provided the name of another brother.

1 Al-Ghazi also testified he was a little scared by this
2 guy because he thought he was the real deal.

3 And even though Mr. Al-Ghazi was clear what they said
4 he was -- when the other person said he was a recruiter, he
02:16:14 5 didn't say it was for ISIS, that he was pretty clear on who
6 he was, who he would be recruited for. He was the
7 equivalent on Twitter of a big neon sign that says, "I
8 support ISIS."

9 And then you have the communication, "I'm sort of
02:16:29 10 looking for you," was their communication. So what do you
11 think he was being recruited for?

12 Then we had further communications on social media
13 with the undercover, Steven Jane, starting on March 24.

14 April 1 with Matthew Palmer. April 8, Steven Jane was
02:16:47 15 able to renew contacts. And then in mid-April, Hamza
16 Al-Ansari, and also in April, Amanda Amaro, all going
17 through sort of the middle part of May, 2015.

18 So what are the things they were talking about that
19 are important here? Well, first, there is this same pattern
02:17:03 20 of contact where they start on Twitter, less secure, and
21 move to more secure, which is entirely consistent with the
22 way you would operate if you're trying to do something
23 clandestine or illegal.

24 There's this vetting of new recruits. Are they
02:17:19 25 working for law enforcement? Are they appropriate for this

1 type of a cell?

2 Using those recruits to vet others.

3 Sharing information about supervise, telling the
4 people he's talking to, "Hey, that person is a fed. Don't
02:17:31 5 talk to them. That person is a spy."

6 Giving detailed instructions on counter-surveillance.

7 Discussing weapons.

8 Discussing martyrdom.

9 Discussing this goal of creating a team or a cell in
02:17:42 10 the United States.

11 And how does this all relate to ISIS? What are these
12 connections?

13 Well, first, you heard expert testimony from Dr.
14 Vidino that the ideology expressed in these communications,
02:17:54 15 the methodology, is consistent with ISIS. And how ISIS
16 operates, that in this world of ISIS, where it's a more
17 bottom-down organization, how people join, not a, you know,
18 formal application process within Syria, necessarily, that
19 this type of online recruitment is entirely consistent with
02:18:17 20 how ISIS operates.

21 In the communications, he says he's in communication
22 with and getting guidance from senior brothers.

23 Who would that be? Well, in the overall context, the
24 inference is senior brothers in ISIS.

02:18:32 25 He explains the goal is to act in the United States.

1 Not to make hijrah, the term used for going to Syria, is to
2 stay here in the United States. Sometimes it's directly
3 that the guidance is to stay here. Other times it's through
4 use of analogy to try to talk around the topic. But the
02:18:52 5 message, if you read these communications, it's clear that
6 it's to happen in the United States. Not for travel
7 overseas.

8 He also used, and the most clear example of saying
9 this, is for the Islamic State, this reference to the brain
02:19:06 10 and the body and the limbs. And when explicitly asked, "Who
11 is the ultimate brain?" The answer was the khilafa, which
12 is ISIS, and when asked further, "Who are we doing this on
13 behalf of? Who are we working for? The ultimate brain?"
14 The answer was, "Yes, the ultimate brain."

02:19:28 15 And the purpose is to create these provinces, like, he
16 says like a headquarters and outpost analogy. You bring the
17 Islamic State to the United States through this cell
18 creating an outpost of the Islamic State. That's what's
19 explained.

02:19:42 20 And further, at the end of the evidence in this case
21 chronologically, when that New Era document is posted, it's
22 done with explicit references to ISIS.

23 He uses the ISIS flag in the second version, reference
24 to the Islamic State in America, a reference to the ISIS
02:20:00 25 leader in it, and then in posting it, asked Amanda Amaro to

1 run it by Sally Jones who you heard is from the expert
2 testimony, is or was a member of ISIS in Syria.

3 These are solid connections for what the defendant was
4 attempting to do in this case.

02:20:20 5 Part of what he did with propaganda spread on their
6 behalf and instructions, one of the more important documents
7 you heard was this GPS for the Ghuraba.

8 So what do we know about it? Came in April of 2015.
9 He pushed it on Steven Jane, pushed it on Hamza Al-Ansari,
02:20:39 10 wanted it further distributed online.

11 We also know it was written by Erick Hendricks.

12 If we take a look at what the purpose was, had all
13 this advice on counter-surveillance, ways to support the
14 mujahideen, and also had advice on what to do if the police
02:21:00 15 come for you, booby trap your house and have your AK.

16 And how do we know he wrote it? Well, in the
17 recording of the meeting between him and Hamza Al-Ansari, he
18 says, "I gave you my writing. Actually me and my wife wrote
19 that." And then later follow-up explaining the title, GPS
02:21:17 20 of the Ghuraba.

21 So you know Erick Hendricks wrote it.

22 It's also consistent with his other communications.
23 In the document it talks about how the advice is, "We
24 suggest that all brothers keep the groups of 7 to 12 with
02:21:33 25 one Amir." What he told Steven Jane about the team that

1 should be created, "A solid team is between 7 to 12." Very
2 consistent with what he's advising.

3 Then we have the meeting with the CHS on May 2.
4 Consider that meeting. Consider how they get there. First,
02:21:50 5 he sends him to a park and ride. Then he direct him to a
6 Burger King. He meets him in the bathroom. And you heard
7 this on tape, tells him to take the battery out of his cell
8 phone, gives him a two-way radio, and then he uses that to
9 communicate to direct him to a third location, this office
02:22:08 10 park, with no one around where they can see all around them
11 to actually have their meeting.

12 Who does that? Why would you do that? If this isn't
13 part of an effort to do something illegal, to do something
14 that you don't want law enforcement to know about, you don't
02:22:24 15 take those steps.

16 And what was the topic? Was that all about creating
17 the cell.

18 What do they discuss? They discuss weapons. They
19 discuss land. They discuss raids. Future attacks on
02:22:39 20 military and recruiting stations.

21 They discussed the Prophet Mohammad cartoon contest
22 coming up in Garland, Texas, the following day and Pamela
23 Geller, military training, getting land for some kind of
24 compound.

02:22:53 25 He admits to writing the GPS document and refers him

1 to a bunch of other resources.

2 Now, the recording, you heard testimony, isn't that
3 great. And there are parts where it's not. But within
4 there, within that recording are nuggets that corroborate
02:23:09 5 this, and you heard several of those. About the GPS for the
6 Ghuraba, about having weapons and land, about the Garland
7 cartoon contest.

8 And think of the resources he referred him to.
9 Resources that are consistent with what was done with
02:23:27 10 others.

11 An-Awlaki. You heard expert testimony about
12 Al-Awlaki. Why is that person? Because it places the
13 ideology in the right location that this is ideology that is
14 consistent with what ISIS and the Islamic State.

02:23:42 15 You heard him described by Dr. Vidino as essentially a
16 kind of rock star for people who believe in violent jihad
17 and how important he was.

18 And he told Special Agent Jane, referred him to this
19 kalamullah website to find Awlaki lectures and talked about
02:24:01 20 the 12 lectures in the series.

21 Gave the same advise to Al-Ansari both in person and
22 asked him again about the 12 lectures.

23 And here at the meeting he talked about going to a
24 lecture by Sheikh Awlaki, and specifically the same 12
02:24:18 25 lectures.

1 And there's the How to Survive in the West manual, a
2 manual that got referenced in the earlier communications
3 with Steven Jane, with the other people he was communicating
4 with, and then in person. This is the manual he's pushing
02:24:34 5 on people for guidance.

6 And what's in it? Take a look. Hiding the extremist
7 identity, Internet privacy, modern weapons and bomb-making,
8 guidance on creating a sleeper cell, about weapons, similar
9 to what he had told others, an AK-47 is preferred, various
02:25:04 10 examples of bomb-making, pressure cookers, gas canisters,
11 mail bombs, highly flammable materials, and mobile phone
12 detonators.

13 Advice on why not to use certain mobile phones, the
14 iPhone being a spy phone. Exactly consistent with what he
02:25:27 15 tells Mr. Al-Ansari in their meeting about taking batteries
16 out, and why he doesn't like the iPhone.

17 And then we move up to the terrorist attack in
18 Garland, Texas. May 3, two individuals attack this cartoon
19 contest, Elton Simpson and Nadir Soofi. ISIS claims
02:25:48 20 responsibility afterwards.

21 What do we know? Beforehand, we know through Twitter
22 and then on Surespot and also through the explanation with
23 Steven Jane that he was in contact with him, that the
24 defendant was in contact with Elton Simpson.

02:26:01 25 He's also talking to Agent Jane. He said he was in

1 contact with senior brothers in ISIS. The defendant puts
2 Steven Jane in contact with Elton Simpson, asked him to vet
3 him, essentially to determine, "Is he a good recruit?"
4 That's sort of the purpose of that.

02:26:18 5 And then on May 2, he starts telling Agent Jane to go
6 to Garland to harass them during the night, to do a good
7 solid protest, a unique one-man protest.

8 And from the context -- you can read the context of
9 these communications -- all the other evidence, and know
02:26:36 10 he's not talking about carrying a sign. And he says, "Go
11 find your brother Juda," a reference to Elton Simpson who
12 also went by juba. So there's a little misspelling here.

13 And then once he is there, once the undercover is at
14 the event, what's he asking him? All these questions about
02:26:56 15 how big this gathering is, are there snipers, do you see
16 feds there, is there media there, all these questions about
17 information about the event.

18 And then the event itself happens. And as you heard,
19 Special Agent Jane drives by. And as he drives by the
02:27:08 20 circled intersection, the attack happens.

21 Then what does Hendricks do after the attack?

22 He tells Agent Jane, "I thought you were dead." Why
23 would he do that if he didn't think Agent Jane had taken
24 part in that attack? And why would he think that? Because
02:27:26 25 he sent him there to do more than just protest. That's the

1 only reason he would think he was dead.

2 And then he says, "You've been saved for some future
3 plan by Allah."

4 He discusses safe houses, changing social media
02:27:40 5 accounts, tells Al-Ansari to remove stuff from his Twitter,
6 and links him to the New Era document.

7 So The New Era document. A couple important things
8 here. The first draft refers to attack any target, a new
9 Muslim of two years, another of 11 years.

02:27:59 10 Agent Jane testified that his role was he had been a
11 Muslim for two years. In the communications with Elton
12 Simpson, it was disclosed he was a Muslim of 11 years.

13 Appears to be a reference to Elton Simpson and Steven
14 Jane. Would be consistent.

02:28:16 15 Volume 2. There's no longer reference to the two
16 brothers in version two.

17 And how do we know that Hendricks authored that
18 document? You heard the testimony from Amanda Amaro that he
19 was first contacted on UmmahOneLove, which was consistent
02:28:35 20 with that TOR correlation, was also how he had first
21 contacted the account that first contacted Elton Simpson and
22 led up to the undercover being put in touch with Elton
23 Simpson.

24 Then she says the actual document was sent to her on
02:28:52 25 Surespot, itsmehere. That's the same account that Hamza

1 Al-Ansari testified he was contacted on after he met with
2 Erick Hendricks in Baltimore.

3 How does Amanda Amaro pick out of thin air the
4 itsmehere account? There's no explanation other than it was
02:29:10 5 the same person who is communicating with her and that when
6 she is saying it's itsmehere, that's corroborated by the
7 fact that that same account is used with Mr. Ansari after
8 the meeting with Erick Hendricks.

9 The author is listed as the same as the GPS for the
02:29:31 10 Ghuraba document. A little fact, but still consistent.

11 And the changes in the deceased terrorists, that
12 points again to Erick Hendricks because he's the one who
13 knew Steven Jane was there. He's the one who sent him
14 there. He's the only one who would know to make that
02:29:46 15 change.

16 Ands what happens after that as we move into May?

17 Well, we know Hendricks spots surveillance. We know
18 he ceases communication with Steven Jane and Hamza
19 Al-Ansari. And then he uses this final account to talk to
02:29:59 20 both of them. Dontcatch17.

21 He is taunting them. He spotted surveillance. He is
22 communicating one last time with both of these people and
23 he's taunting them about dontcatch17. You won't catch me.

24 Ladies and gentlemen, based on the evidence in this
02:30:17 25 case, the evidence caught Mr. Hendricks. The evidence shows

1 that he is guilty of conspiracy to provide material support
2 to ISIS and attempting to provide material support to ISIS.
3 Dontcatch17 didn't get away.

4 We ask you to return the verdict the evidence directs:
02:30:38 5 Guilty on both counts.

6 Thank you.

7 THE COURT: All right. Thank you, Counsel.

8 Ladies and gentlemen, we're going to take our morning
9 recess. We'll reconvene at 11:00. We're going to hear
02:30:51 10 closing argument at that point of counsel for the defendant.
11 We'll hear the rebuttal from the government. I'll give you
12 some final instructions. And then you'll begin with lunch
13 before we start the deliberations.

14 So we'll take 20 minutes. We'll be back -- we want to
02:31:07 15 be back promptly at 11:00.

16 So we'll see you at that time.

17 Thank you very much, ladies and gentlemen.

18 (Jury out, 10:40 a.m.)

19 (Outside the presence of the jury:)

02:51:32 20 THE COURT: Counsel, are we ready to proceed?

21 MR. DOUGHTEN: Yes, Your Honor.

22 MR. SHEPHERD: Yes, Your Honor.

23 THE COURT: All right. Let have our jurors,
24 please.

02:51:43 25 (Jury in, 11:00 a.m.)

1 THE COURT: Counsel for the defendant, you may
2 present your closing argument.

3 MR. HARTMAN: Thank you, Your Honor.

4 Good morning, ladies and gentlemen.

02:53:01 5 JURORS: Good morning.

6 THE COURT: I don't have a PowerPoint
7 presentation for you. I'm doing this the old-fashioned way.
8 So I'm going to go back and refer to my notes a little bit.
9 I'm going to walk back and forth a little bit. I hope that
02:53:14 10 doesn't distract you.

11 I want to thank you before we get started for your
12 attentiveness as does my cocounsel and my client. You have
13 paid very close attention and we thank you for that. As I'm
14 sure the government does as well.

02:53:28 15 I can't imagine that it's easy to serve on a jury like
16 this one. And as a defense lawyer, I have this nagging fear
17 that you'll be back there and you'll be deliberating and
18 realize, "Well, this is a case about terrorism. Terrorism
19 is scary. We got to give the government the benefit of the
02:53:58 20 doubt, because this is scary to all of us."

21 But you can't do that. You've got to follow the
22 instructions that Judge Adams gave you. And you've got to
23 follow them to the letter.

24 And if the government doesn't prove each and every
02:54:14 25 element of each offense beyond a reasonable doubt, then you

1 have to find my client not guilty.

2 There's no question that you have a big job ahead of
3 you. There are a lot of witnesses that you heard from.
4 There are a lot of exhibits to look over. And that's going
02:54:37 5 to be tough to do.

6 But when you evaluate all those exhibits and you
7 consider the testimony of the witnesses who came up, we
8 believe you'll see that the government came up short. And
9 they didn't prove every element of the offense beyond a
02:54:56 10 reasonable doubt.

11 And I'll tell you why.

12 First, as to Count 1, the government did not prove
13 that there was a criminal agreement made to provide material
14 support to ISIS. They didn't prove that.

02:55:14 15 Now, remember -- I'm going to quote this so I get it
16 right. Remember the judge told you that proof that people
17 simply met together and talked about common interests or
18 engaged in similar conduct is not enough to establish a
19 criminal agreement.

02:55:34 20 And that's a lot of what we have here. Common
21 interests, similar conduct. But that's not enough.

22 He also told you that proof that a person was present
23 at times or associated with members of a group, even if he
24 approved of what was happening or did not object, is not
02:55:54 25 enough to prove that someone joined a conspiracy.

1 And that's also what we have.

2 So how is there no agreement in this case?

3 Let's first talk about Agent Jane and his testimony.

4 And frankly, we don't know who he was communicating with.

02:56:26 5 Now, the government showed you a lot on its PowerPoint
6 about common words and common phrases. But you heard
7 testimony that those words and phrases are common in the
8 Islamic world. They come from famous proverbs, one came
9 from a famous speech. And they're commonly used.

02:56:50 10 So the fact that they were used more than one time
11 doesn't mean that it was necessarily by the same person.

12 The other thing the government didn't mention when it
13 was running through all of those screen names, is the name
14 itsme17.

02:57:08 15 Now, you heard testimony that itsme17 was a Wickr
16 handle, a Wickr user name, if you will.

17 And that user name was active as recently as February
18 of 2018. Last month. That was still active.

19 And it couldn't have been Erick Hendricks. So who was
02:57:38 20 it? If all these user names are interconnected and one all
21 leads off to the other, who was itsme17? And who has been
22 using it all this time? We don't know the answer to that
23 question.

24 But it injects some serious doubt into the question of
02:57:57 25 whether or not these user names were really utilized by

1 Erick Hendricks.

2 Now, Agent Jane testified that the person on the other
3 end of these communications never told him to commit an act
4 of violence. And we believe that even if you assume it was
02:58:33 5 Erick on the other end of these communications, that what
6 they spoke about and what they did back and forth never rose
7 to the level of a criminal agreement.

8 Agent Jane also testified that he wasn't agreeing with
9 Elton Simpson when he sent Simpson a message that read,
02:58:56 10 "Tear up Texas."

11 Of course, he wasn't agreeing to send Simpson a
12 message to tear up Texas. Elton Simpson went with assault
13 rifle and tried to attack the Garland contest. Of course,
14 the FBI wasn't agreeing with that.

02:59:13 15 The person on the other end of these communications
16 also said to Agent Jane, "Let's be clear. We never plan to
17 do anything to anyone." And that's in the exhibits. You
18 can look that up for yourselves when you get back to the
19 jury room. "We never plan to do anything to anyone."

02:59:41 20 There wasn't a meeting of the minds with any of the
21 paid informants. How could there be? They get paid by the
22 government to root out radicals, not to enter into
23 agreements to do things that are illegal. In fact, I think
24 one of them even testified they weren't allowed to do that.

03:00:15 25 You'll have to check your notes. I don't know if my

1 memory serves.

2 You know, frankly, you have to be skeptical about a
3 lot of what you heard in this case. I don't mean from the
4 witnesses on the stand. I mean the recordings, the
03:00:39 5 communications over social media. You have to be skeptical
6 about a lot of that because a lot of it was lies.

7 You had an undercover agent putting out a false
8 persona. You had paid informants trying to gather
9 information using false performance -- false personas,
03:01:03 10 excuse me. And you had this other person on the other end
11 of the line saying things like "Misinformation is good."

12 And you heard Erick say, "War is deception," that day
13 in Baltimore.

14 So how can you believe all these texts going back and
03:01:24 15 forth, these messages going back and forth?

16 Everyone literally was pretending to be something that
17 they weren't. All the paid informants and the agents, all
18 pretending to be something that they weren't.

19 Now, let's talk about Mr. Al-Ghazi. Mr. Al-Ghazi has
03:02:03 20 a long criminal record. He got arrested trying to buy an
21 AK-47 assault rifle. We don't know what he was going to do
22 with that. But after that arrest, he entered into a plea
23 deal with the government.

24 He was charged with material support for terrorists,
03:02:30 25 two counts of being a felon in possession of a firearm, and

1 multiple counts of drug trafficking.

2 And he entered into an agreement by which he's only
3 going to serve 16 years. That's if the judge accepts it.
4 And his agreement says that if the judge doesn't accept it,
03:02:49 5 he can withdraw his guilty plea.

6 And what's more, there's a Rule 35 provision in his
7 plea agreement, which means the government can go back for a
8 year after the sentencing and ask for him to get less time.

9 Do you think he has a motivation to get up there and
03:03:06 10 lie? Of course, he does. A big one.

11 The amount of time he would have gotten, had he not
12 entered into this plea agreement, would have been
13 staggering.

14 But in order to get the benefit of that agreement, he
03:03:24 15 had to come in here and testify the way that he did. And I
16 submit that you should look on his testimony with a great
17 deal of skepticism.

18 There was no meeting of the minds with Mr. Al-Ghazi.
19 He stated that he thought the person he was talking to was
03:03:52 20 the real deal or an FBI agent. So he was scared. Either
21 way, he was scared.

22 And Mr. Al-Ghazi testified that the only reason he
23 turned that person on to the Pennsylvania brother, as he
24 called him, the only reason he did that was to get the heat
03:04:13 25 off himself because he didn't want to be involved with this.

1 That doesn't constitute a criminal agreement with Mr.
2 Al-Ghazi, not by any means.

3 Now, Matthew Palmer. Matthew Palmer was the informant
4 who has been paid almost a total of a quarter million
03:04:58 5 dollars.

6 He has a vested interest in producing things for the
7 government. There's no question about that.

8 But we don't know who he was communicating with
9 either.

03:05:10 10 And, again, these connections between the various
11 platforms and the various user names, they're far more
12 tenuous than the government suggests.

13 Now, Janet Lynn Miller, in this meeting in Baltimore
14 on March 19, certainly there's no agreement with her. She
03:05:38 15 flat out said on the stand she didn't agree with what he was
16 saying. She was afraid of him.

17 As the government pointed out, she went and called the
18 FBI. She called herself an ISIS sympathizer at times or
19 said she could be perceived that way. But she didn't enter
03:05:57 20 into an agreement with Erick Hendricks. Not by any means.

21 And despite what she claims he said -- and I believe
22 she wasn't the most credible witness, but you'll be the
23 judge of that -- despite what she claims he said, they never
24 entered into an agreement to do anything.

03:06:19 25 She said, I didn't believe in what he was saying.

1 Amanda Amaro. Here is another one.

2 Her contacts was with UmmahOneLove or some variation
3 thereof. And she testified that when she posted that New
4 Era document, that she only did so because she was afraid.
03:06:59 5 And she took it down twice because she was afraid, because
6 she didn't like the content of it.

7 She didn't make an agreement with whoever sent her
8 that document. And I would submit it has not been proven
9 that it came from my client.

03:07:18 10 You know, she's a great example of why the instruction
11 that I read to you earlier is important. Because she was a
12 supporter of ISIS. She hasn't been charged for it, but she
13 admitted it on the stand.

14 But people having common interests, those instructions
03:07:49 15 I read earlier, which I won't go back and read again,
16 they're important because of witnesses like Amanda Amaro,
17 because just them being in a room together talking about
18 common interests doesn't rise to the level of a criminal
19 agreement. And that doesn't get to you conspiracy.

03:08:06 20 By the way, Amanda Amaro also admitted that she was
21 lying throughout her communication with UmmahOneLove.
22 You'll recall that.

23 And she claims that she contacted this Sally Jones,
24 but she admitted that she had no idea who that person really
03:08:36 25 was. She had heard it was Sally Jones, but I think on

1 cross-examination the question was, "It could have been the
2 person next door," and she said, "Yeah."

3 So we don't know. There's no nexus there to get to
4 ISIS through Sally Jones because we don't know who it was
03:09:00 5 she was communicating with.

6 Now, we need to talk about Tyrinda Hendricks for a
7 little bit who is my client's wife, and the government
8 claims that she was a coconspirator.

9 But the only evidence that concerned her was when
03:09:38 10 Erick said, "Me and my wife wrote this." She didn't adopt
11 that. There's no other evidence of her conspiring.

12 Yes, she came to the meeting. They were traveling
13 together. Yes, she came to that meeting in Baltimore, but
14 they were traveling together.

03:10:02 15 And just Erick saying, "My wife and I wrote this" does
16 not get you to a criminal agreement beyond a reasonable
17 doubt. It just doesn't get you there.

18 Now, let's talk about all the IP addresses with the
19 fancy maps and all the connections.

03:10:51 20 We don't have any devices that would prove whether or
21 not that was Erick Hendricks who was making those
22 communications. We have none of those devices.

23 And I submit to you that the IP addresses and -- and
24 Ms. Vaughan, when she testified talked about possible
03:11:16 25 patterns, things like that, but if we had the devices, we

1 would know for sure. And we don't.

2 I'll move on to the second count for a minute.

3 The second element of that count is that the defendant
4 knew or intended that the support or resources was going to
03:12:03 5 the organization known as ISIS.

6 Elsewhere in the jury instructions, they read,
7 "Individuals who act entirely independently of foreign
8 terrorist organization to advance its goals or objectives
9 are not considered to be working under the foreign terrorist
03:12:25 10 organization's direction and control."

11 So given what we know Erick did do, the meeting in
12 Baltimore, is there evidence that he intended the outcome of
13 that was going to go to the foreign terrorist organization,
14 was going to actually go to ISIS?

03:12:52 15 I don't think there's any evidence of that.

16 Even if you assume that these communications are him,
17 was something designed to go to ISIS? Was there a goal at
18 the end that "We're going do this and then we're going to
19 send it to ISIS? We're going to do this for ISIS?"

03:13:17 20 I don't believe so.

21 And acting independently to achieve the same goals and
22 objectives is not to be considered working under the foreign
23 terrorist organization. And that means something. So read
24 those instructions carefully when you get back to that jury
03:13:39 25 room.

1 Now, finally, you heard evidence about hacking. You
2 heard from one witness who had hacked a website, hacked
3 websites as part of his training. You heard that phones can
4 be hacked. Phones can be taken over entirely.

03:14:11 5 Heck, Dr. Vidino told you that ISIS has an incredibly
6 sophisticated hacking enterprise.

7 So what happened with these phones? Where did these
8 communications come from? Could it have been a result of
9 hacking? We just don't know. We just don't know. And
03:14:38 10 that's why there's not enough here to convict.

11 Now, I missed Mr. Ansari. I need to talk about Mr.
12 Ansari and the meeting in Baltimore.

13 First of all, Mr. Ansari didn't agree to do anything,
14 I don't believe. You can listen to that audio for
03:15:30 15 yourselves. But I don't think he agreed to do anything but
16 read.

17 But the question is, why would Erick have that
18 meeting? Why would he say the things that he did? And the
19 answer to that question, I believe, lies in Erick's
03:15:56 20 interactions with Steve Conley, because later on, Erick
21 called Mr. Conley and said, "Hey, there's this Russian guy
22 who I think is peddling in illegal merchandise. Are you
23 interested in that?"

24 Turns out that was a confidential human source, so
03:16:19 25 they weren't interested in that. But Erick didn't know

1 that.

2 But I think it's safe to infer from that that Erick
3 was trying to get back into the good graces of the FBI. And
4 why would he do that? Money. Money. One paid informant
03:16:44 5 got \$45,000. Another got 90. Another got almost 250.
6 Erick had been there. Had been a paid informant before.
7 But was closed as a source.

8 But I think we can infer from his communications with
9 Agent -- with Officer Conley in the middle of May and
03:17:14 10 towards of end of May that Erick was trying to get back in
11 the good graces of the FBI. And I think he was doing it so
12 he could become a paid informant again.

13 Ladies and gentlemen, there's a lot that looks bad
14 there this case, I'm not going to kid you. I'm not trying
03:17:59 15 to pull the wool over your eyes. But the fact of the matter
16 is the government has to prove each and every element beyond
17 a reasonable doubt.

18 And we don't believe that they've proved that there
19 was any criminal agreement in the conspiracy count. And we
03:18:22 20 don't believe that they've proved that second element of the
21 attempt count, which is Count 2.

22 And in light of that, we think it's appropriate that
23 you go back and deliberate and then return a verdict of not
24 guilty as to each count in this indictment.

03:18:44 25 Thank you.

1 Thank you, counsel.

2 Counsel for the government, you have 15 minutes for
3 rebuttal, please.

4 MR. SHEPHERD: Thank you, Your Honor.

03:18:55 5 Good morning, again, ladies and gentlemen.

6 There are several points I want to discuss with you so
7 I'm going to move pretty quickly. I may not hit everything
8 defense counsel just stated, but I'm going to hit several of
9 them, and like him, I would also like to thank you for your
03:19:16 10 attention and service before I move on to responding to some
11 of his points.

12 So with that said, some of the things that the defense
13 counsel just talked about deserve some further consideration
14 by you.

03:19:28 15 Let's start with hacking. Towards the end he said
16 there could have been hacking done in this case. It's
17 really could have been. Maybe. In some way it's possible,
18 I guess. But there has been zero evidence presented that
19 any of these accounts in this case were hacked. Zero
03:19:47 20 evidence. And your job is to look at the evidence. It's
21 not to speculate on what could be or what might be. It's to
22 look at what the evidence tells you.

23 And the evidence as to hacking is, one, there's no
24 evidence that any of these accounts were hacked. And the
03:20:01 25 testimony from Amy Vaughan about these encrypted

1 communication apps, that to hack them you would have to have
2 a password and a user name or in the case of Surespot, this
3 other like identity key, you would either have to have all
4 that information or you would have to rip the phone from
03:20:19 5 someone's hand while they had the app open.

6 And even if you had all the information about all the
7 other accounts, you still wouldn't have any further
8 communication. So you wouldn't have any continuity of
9 communications.

03:20:29 10 So we ask you to look at the evidence in this case.
11 Not the speculation. Just the evidence.

12 And when we talk about Mr. Ansari and this meeting in
13 Baltimore, let's talk about, again, what the evidence tells
14 us about that meeting and this inference the defense counsel
03:20:49 15 just mentioned that maybe he was trying to get into Steve
16 Conley's good graces to get further -- to I guess further
17 work as an informant.

18 So the evidence about that meeting is after the
19 meeting is set up and before the meeting, there's no contact
03:21:05 20 with Mr. Conley, "Hey, I got a good meeting coming up with
21 this great possible target for you. Is that worth some
22 money?"

23 No evidence, according to Steve Conley, no contact.

24 He has the meeting. After the meeting, no contact.
03:21:20 25 That's according to Steve Conley's testimony. Think of the

1 way he did all the counter-surveillance. He's just trying
2 to do this so he can turn the information over to the FBI?
3 Why does he have to go through all the elaborate steps?
4 There's no reason for that if you're trying to let the FBI
03:21:35 5 know anyway because who cares if the police see you with
6 this person? You're going to turn that information over as
7 soon as you get a chance.

8 We also have, if you consider that sort of the chain
9 of events, after that meeting, okay, he meets with the guy.
03:21:50 10 And if the intent is "I'm going to turn him over to the
11 FBI," and then after that meeting he tries to set that
12 person up with his step-daughter, really?

13 How in any conceivable universe does that make any
14 sense? He's going to turn over the guy he's setting up with
03:22:05 15 his step-daughter to the FBI?

16 No, what makes sense, when you're asked the question,
17 why did he go to that meeting, is exactly what the evidence
18 shows, that it was part of his course of conduct to conspire
19 with -- to conspire to and attempt to support ISIS.

03:22:21 20 And if you go even further, Steve Conley testified he
21 talked to him on the phone, communicated with him by text
22 message, met with him in person, no mention of this meeting
23 in Baltimore or any other information. No mention of any of
24 it.

03:22:35 25 Then, yes, he tells him about a Russian at a flea

1 market selling purses. Okay. There's a Russian -- he
2 provides that information. Has nothing to do with
3 terrorism. Nothing to do with ISIS. Nothing to do with
4 anything else in this case.

03:22:50 5 And do you really believe that if he's just interested
6 in getting paid by the FBI he's going to turn in a guy who
7 is selling knock-off purses at the flea market, but not turn
8 in the guy he just met with who is an ISIS supporter in a
9 terrorism investigation? That doesn't make any sense
03:23:05 10 either.

11 And when does he contact Steve Conley for the first
12 time? It's after he's made surveillance because he's
13 complaining to him about it. So what's the evidence suggest
14 is the likely course of event here?

03:23:18 15 The defendant meets with a person he thinks is a
16 legitimate bad guy and is part of his course of conduct. He
17 meets with him, continues to interact with him, and when he
18 figures out that they're on to him, now he calls Steve
19 Conley and says, "Hey, why is the FBI following me?"

03:23:35 20 It's after the fact that he seems sees surveillance
21 and he figured out that the undercover he is talking to
22 isn't dead, that this whole things start to turn into,
23 "Well, I've got to call Steve Conley."

24 That's just a pure red herring in this case. Nothing
03:23:50 25 to do with what actually happened.

1 Because what happened in this case is all the evidence
2 that you heard.

3 Further, let's pull up Government's Exhibit 153 to
4 respond to one more specific thing, which was about this
03:24:02 5 itsme17 account.

6 And actually, if we can just turn on the elmo, I'll do
7 it that way, if it won't come up.

8 So Government's Exhibit 153 are business records from
9 Wickr. And the first set of business records that you'll
03:24:29 10 see in Government's Exhibit 153, the date is May 22, 2015.
11 That's on page 1.

12 Then there's page 2, shows that there's -- turn on the
13 auto focus maybe, and it will work -- shows that there's
14 attachment.

03:24:56 15 And then Government Exhibit 153, page 3, has the
16 actual records.

17 So itsme17 is in here. So as of May 22, 2017, the
18 records that come back show that this account was created on
19 May 10, 2015 at 8:09:19 p.m. And it shows that the last
03:25:20 20 usage as of then was May 14, 2015 at 11:08:27 a.m.

21 Then the next account that appears in the course of
22 communications you have is at the bottom, dontcatch17,
23 created on May 14, 2015, at 11:11:36 a.m. Three minutes
24 later. Fits perfectly, the chain of communications, and the
03:25:48 25 usages of these -- and the usages of these accounts.

1 But then you have this usage, testimony about a usage
2 of this account later in February of this year, February of
3 2018.

4 We would suggest you should look at these records as
03:26:04 5 the evidence that matters in this case. Not the convenient
6 fact for the defendant, the incredibly convenient fact for
7 the defendant that this one account shows usage about a
8 month before trial. That's an incredibly convenient fact
9 for the defendant. A defendant who, by the course of all
03:26:23 10 these communications, you know, is taking steps to try and
11 create information here and there when it turns out that he
12 thinks someone might be a spy, he throws out a "Don't do
13 terrorism."

14 That's a convenient fact that fits perfectly with the
03:26:39 15 defendant's other behavior.

16 Stick to the records you have is what we would
17 suggest, which show the usage of this account to fit
18 perfectly with the regular chain of usages of accounts.

19 Now, on a big picture, what I'll finish up with is
03:26:56 20 some discussion of, in this case, when you're talking about
21 conspiracy and attempt.

22 So what's key in both of those, when you're talking
23 about the role of the Islamic State in all of this, is the
24 intent. Because those aren't substantive completed crimes.
03:27:17 25 Conspiracy isn't a substantive crime. It's the agreement to

1 do something.

2 And what's key to that is what is intended with that
3 agreement?

4 And with attempt, it's what you intend to do. Not
03:27:28 5 what you completed.

6 So look at it from the perspective of what was
7 intended by these actions, not what was actually completed,
8 because if you start looking at the instructions and just
9 thinking, "Oh, well, Sally Jones, there's not -- there's not
03:27:44 10 perfect confirmation that Amanda Amaro sent this to the real
11 Sally Jones," that's not what's truly important.

12 What's important is that it was intended she send it
13 to Sally Jones. She thought -- she testified she thought it
14 was going to Sally Jones. The instruction was from the
03:28:02 15 defendant was to send it to Sally Jones.

16 So in the context of conspiracy and attempt, that's
17 what matters, the intent.

18 And when we talk about who he conspired with, what was
19 totally left out in the defense counsel's argument was that
03:28:19 20 he is telling Steven Jane that he's working -- he's
21 communicating with senior brothers. He's telling them.
22 He's explaining in those communications what he's trying to
23 do, to create this headquarters with outposts, the limbs for
24 the brain and the brain to the ultimate brain. He's
03:28:40 25 explaining it all of them.

1 He's being a little bit cagey about it, which is
2 consistent with how he operates, but he's explaining this is
3 all being done for that ultimate brain, for ISIS.

4 And he's communicating with and getting advice from
03:28:53 5 those senior brothers, and he's part of that operation. And
6 that's conspiracy.

7 And when his wife helps him to write a document
8 and -- that's conspiracy.

9 And when Amir Al-Ghazi gives him the name of another
03:29:08 10 recruit, that's conspiracy.

11 And when Amanda Amaro posts a document taking credit
12 on behalf of the Islamic State in America for this terrorist
13 attack for him, that's conspiracy as well.

14 The judge also, referring to his instructions, advised
03:29:24 15 you that possible doubts or doubts based purely on
16 speculation are not reasonable doubts. A reasonable doubt
17 is a doubt based on reason and common sense.

18 We ask that you use your reason and common sense.
19 Examine the evidence. Don't look for doubts that are just
03:29:42 20 on speculation. Use that common sense and the evidence in
21 this case, what you heard, what the documents say.

22 And if you do that, what common sense and reason will
23 lead you to is that the defendant is guilty of both counts.

24 Thank you, Your Honor.

03:29:59 25 THE COURT: Thank you, Counsel.

1 Ladies and gentlemen. Jury, let me finish up my
2 instructions by explaining some things about your
3 deliberations in the jury room and your possible verdict.

4 The first thing you should do in the jury room is to
03:30:20 5 choose someone to be your foreperson.

6 This person will help to guide your discussion, will
7 speak for you here in court. Once you start deliberating,
8 do not talk to the courtroom deputy, to me, or to anyone
9 else except each other about the case. If you have any
03:30:39 10 questions or messages, you must write them down on a piece
11 of paper, sign them, and then give them to the courtroom
12 deputy. She will then give them back to me and I will
13 respond as soon as I can.

14 I may have to talk to the lawyers about what you've
03:30:54 15 asked, so it may take me some time to get back to you.

16 Any questions or messages normally should be sent to
17 me through my courtroom deputy or perhaps my law clerk in
18 her absence by your foreperson.

19 One more thing about messages. Do not ever write down
03:31:12 20 or tell anyone how you stand on your votes. For example, do
21 not right down or inform anyone that you are split six, six
22 or eight, four or whatever your vote happens to be. That
23 should stay secret unless you're finished.

24 Experiments, research and investigation.

03:31:28 25 Remember that you must make your decision based only

1 on the evidence that you saw and heard here in court. Do
2 not try to gather any information about the case on your own
3 while you are deliberating.

4 For example, do not conduct any experiments inside or
03:31:43 5 outside the jury room. Do not bring any books, like a
6 dictionary, or anything else with you to help you with your
7 deliberations.

8 Do not conduct any independent research, reading, or
9 investigation about the case, and do not visit any of the
03:31:59 10 places that were mentioned during the trial.

11 Make your decision based only on the evidence that you
12 saw and heard here in court.

13 During your deliberations, you must not communicate
14 with or provide any information to anyone by any means about
03:32:13 15 this case. You may not use any electronic device or media,
16 such as a telephone, cell phone, smartphone, iPhone,
17 Blackberry or computer, the Internet, or any Internet
18 service or any text or instant messaging service, or any
19 Internet chat room, blog, or website such as Google,
03:32:36 20 Facebook, MySpace, LinkedIn, YouTube or Twitter, to
21 communicate to anyone any information about this case or to
22 conduct any research about this case until I accept your
23 verdict.

24 Unanimous verdict.

03:32:49 25 Your verdict, whether it is guilty or not guilty, must

1 be unanimous.

2 To find the defendant guilty, every one of you must
3 agree that the government has overcome the presumption of
4 innocence with evidence that proves the defendant guilty
03:33:05 5 beyond a reasonable doubt.

6 To find the defendant not guilty, every one of you
7 must agree that the government has failed to convince you
8 beyond a reasonable doubt.

9 Either way, guilty or not guilty, your verdict must be
03:33:19 10 unanimous.

11 Duty to deliberate.

12 Now that the closing arguments are completed, you will
13 be free to talk about the case. I'll explain to you when
14 your deliberations will begin in a few moments, but you will
03:33:32 15 then be free to talk about the case in the jury room.

16 In fact, it is your duty to talk with each other about
17 the evidence and to make every reasonable effort you can to
18 reach unanimous agreement. Talk with each other, listen
19 carefully and respectfully to each other's views, and keep
03:33:49 20 an open mind as you listen to what you're fellow jurors have
21 to say. Try your best to work out your differences.

22 Do not hesitate to change your mind if you are
23 convinced that the other jurors are right and that your
24 original position was wrong.

03:34:03 25 But do not ever change your mind just because other

1 jurors see things differently or just to get the case over
2 with. In the end, your vote must be exactly that, your own
3 vote.

4 It is important for you to reach unanimous agreement,
03:34:18 5 but only if you can do so honestly and in good conscience.

6 No one will be allowed to hear your discussions in the
7 jury room, and no record will be made of what you say. So
8 you should all feel free to to speak your minds.

9 Listen carefully to what other jurors have to say, and
03:34:35 10 then decide for yourself if the government has proved the
11 defendant guilty beyond a reasonable doubt.

12 Punishment.

13 If you decide that the government has proved the
14 defendant guilty, then it will be my job to decide what the
03:34:50 15 appropriate punishment should be.

16 Deciding what the punishment should be is my job, not
17 yours. It would violate your oaths as jurors to even
18 consider the possible punishment in deciding your verdict.

19 Your job is to look at the evidence and decide if the
03:35:08 20 government has proved the defendant guilty beyond a
21 reasonable doubt. If it has, say so. If it has not, say
22 so.

23 I've prepared two verdict forms that you should use to
24 record your verdict. And I'll read the forms to you at this
03:35:25 25 time:

1 It will be clearer when you have them in front of you.

2 The verdict form for defendant Erick Jamal Hendricks,
3 Count 1 will read as follows:

4 "With respect to Count 1 of the indictment, in which
03:35:41 5 Defendant Erick Jamal Hendricks, is charged with conspiracy
6 to provide material support and resources to a foreign
7 terrorist organization, in violation of Title 18, United
8 States Code, Section 2339B(a) (1), we, the jury, having been
9 dual impaneled and sworn, find the defendant, Erick Jamal
03:36:03 10 Hendricks," you will insert on the verdict form in ink,
11 guilty or not guilty.

12 And then each of the jurors must sign the verdict form
13 concurring in judgment. It requires, of course, a unanimous
14 verdict by the jury.

03:36:18 15 The verdict form for Count 2 reads as follows:

16 "With respect to Count 2 of the indictment, in which
17 Defendant Erick Jamal Hendricks is charged with attempting
18 to provide material support and resources to a foreign
19 terrorist organization, in violation of Title 18, United
03:36:39 20 States Code, Section 2339B(a) (1), we the jury, having been
21 duly impaneled and sworn, find the defendant, Erick Jamal
22 Hendricks" -- you'll in insert in ink either guilty or not
23 guilty. And then you will sign and date the verdict form.

24 And, again, the verdicts require the concurrence of
03:36:57 25 all 12 members of the jury.

1 Let me finish up by reseating something I said to you
2 earlier. Nothing I have said or done during this trial was
3 men to influence your decision in any way. You decide for
4 yourselves if the government has proved the defendant guilty
03:37:13 5 beyond a reasonable doubt.

6 Lastly, juror notes.

7 Remember, if you elected to take notes during the
8 trial, your notes should be used only as memory aids. You
9 should not give your notes greater weight than your
03:37:30 10 independent recollection of the evidence. You should rely
11 upon your own independent recollection of the evidence or
12 lack of evidence, and you should not be unduly influenced by
13 the notes of other jurors. Notes are not entitled to any
14 more weight than the memory or impression of each juror.

03:37:47 15 Whether you took notes or not, each of you must form
16 and express your own opinion as to the facts of the case.

17 That concludes the Court's jury instructions.

18 Let me give you some guidance as to how we're going to
19 proceed.

03:38:01 20 We are going to adjourn for the lunch hour, which
21 means that all members of the jury, including our
22 alternates, will be free to enjoy lunch. Your deliberations
23 will not begin until after lunch has been completed. You
24 can signify by notifying the courtroom deputy when you're
03:38:20 25 finished with lunch.

1 At that time, you will then be provided with exhibits
2 that have been presented or that have been admitted, I
3 should say, along with a device to listen to any recordings,
4 to view any exhibits that may require, again, any electronic
03:38:38 5 means for your access.

6 As to -- and, again, those deliberations, your
7 deliberations cannot occur until that time. Again, after
8 lunch, we'll provide you all the necessary information that
9 you need to begin those deliberations.

03:38:55 10 Our alternate jurors, of course, cannot participate in
11 the deliberations. Once lunch is completed, you'll be
12 excused.

13 I want to thank you, all four of you, but your service
14 is not yet complete. When you leave the Court, we'll give
03:39:11 15 you the following instructions. You are not to discuss the
16 case with each other, among yourselves. You are not to
17 discuss the case with anyone else.

18 You wait until such time as you receive a call from
19 the Court. We will contact you and alert you if and when a
03:39:31 20 verdict is reached.

21 The reason I give you that instruction is because
22 there are occasions, and there are times, when emergencies
23 arise, other circumstances might arise in which one or more
24 of you may be called to come back and rejoin your fellow
03:39:46 25 jurors and complete deliberations in this case.

1 So it's extremely important that all the admonitions
2 I've given you throughout the case, speaking directly to our
3 alternates, you must still follow them. That means no
4 Internet research. That means no Facebook postings,
03:40:04 5 whatever it might be, communication with others, no
6 discussion with family, friends. I'm not going to predict.
7 There's no way of knowing how long your fellow jurors will
8 take to reach a verdict.

9 We will notify you promptly when that verdict is
03:40:18 10 reached so that you are then released from those
11 instructions. And then at that time, you'll be free to
12 discuss the case, but not until you receive that
13 notification.

14 At this time, ladies and gentlemen, you may take your
03:40:31 15 notepads with you. Do not, of course, refer to them as of
16 yet. You won't be able to use them until you have all the
17 information, the exhibits, along with all the other items I
18 indicated, along with a copy of the jury instructions for
19 each of you.

03:40:47 20 And there will be one set of -- one verdict form for
21 each count. One original that will require the signature of
22 all members of the panel. So bear those things in mind.

23 And should you have any needs over the lunch hour,
24 anything that we haven't -- I'm not sure if the lunch has
03:41:07 25 arrived yet. It might take a bit of time, given the volume,

1 but we'll get that lunch to you as quickly as we can. Enjoy
2 your lunch. And then immediately when that concludes, we
3 will proceed just as I've indicated.

4 Once, again, I want to thank all of you, including our
03:41:22 5 alternate jurors, for your time and your patience here.

6 We'll adjourn at this time for the lunch hour. And
7 then we will proceed as I've just indicated.

8 Thank you very much, ladies and gentlemen. Take your
9 notepads -- one other thing, I'm sorry, alternate jurors.
03:41:36 10 Give your notepads today clerk. They'll be secured. They
11 won't be viewed or used anything of that nature. But they
12 will be secured, if the event you're called back, then we'll
13 give them back to you for your use.

14 All right. Thank you very much.

03:41:49 15 (Jury out, 11:50 a.m.)

16 THE COURT: All right, Counsel. Make sure that
17 all of the exhibits are organized. We have the
18 certification for you to sign verifying that both sides have
19 viewed the exhibit. Only the admitted exhibits will be
03:42:27 20 going back to the jurors.

21 And then as soon as the lunch hour is completed, I
22 would suspect, depending on how quickly the food arrives, I
23 would suspect around 1:00 they will be ready to start. So
24 we'll let you know as soon as those deliberations begin and
03:42:42 25 obviously make sure the clerk knows how to reach you in case

1 some question or other issue arises.

2 MR. SHEPHERD: Excuse me, Your Honor. Can I
3 approach with defense counsel on a matter, please?

4 THE COURT: Yes.

03:43:08 5 (Discussion at sidebar off the record.)

6 (Recess taken, 11:55 a.m.)

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1 (Outside the presence of the jury 4:05 p.m.):

2 THE COURT: All right, Counsel. We have a jury
3 question. However, the jury has asked to be excused for the
4 day. I'm going to bring them out, provide them the
07:58:23 5 admonitions, send them home as they've requested and then
6 we'll take up the issue of the question.

7 COURTROOM DEPUTY CLERK: The jurors asked for a
8 few more minutes before they come?

9 THE COURT: All right. That's fine. Just have a
07:58:40 10 seat.

11 MR. BENNETT: Your Honor, do you plan to
12 address --

13 THE COURT: Not until we excuse them, then we'll
14 address the question.

07:58:48 15 MR. BENNETT: I mean Matt's absence?

16 THE COURT: Yes, I will do that.

17 MR. BENNETT: Thank you, Your Honor.

18 (Pause.)

19 (Jury in, 4:10 p.m.)

08:01:06 20 THE COURT: Ladies and gentlemen of the
21 jury -- ladies of the jury, it's my understanding at this
22 time you wish to be excused for the day and resume your
23 deliberations tomorrow morning. We're going to honor that
24 request.

08:01:16 25 However, I'm required to explain to you as follows:

1 This evening, once you leave the courthouse, the courtroom
2 an the jury room, of course, and the jury room, of course,
3 you not to discuss the case among yourselves or with anyone
4 else.

08:01:30 5 All of your deliberations and discussions will take
6 place when all 12 of you are present in the jury room.
7 Deliberations can only occur at that time when all of you
8 are present to discuss the case in full.

9 So we'll honor that request. We'll see you tomorrow
08:01:44 10 morning. Be here shortly before 9:00. At that time, I'll
11 respond to your question. You'll be brought in the
12 courtroom and I'll respond -- I think that's the way we'll
13 do it. Respond to your question. I may simply respond in
14 writing. But we'll address the question tomorrow.

08:01:58 15 I wanted to bring you in. I know you wanted to leave.
16 So I wanted to excuse you as soon as possible. So we'll see
17 you tomorrow morning shortly before 9:00 to resume
18 deliberations.

19 Again, deliberations tomorrow morning cannot begin
08:02:12 20 until all 12 of you are present in the jury room.

21 Thank you very much, ladies and gentlemen. Have a
22 good drive home -- safe drive home.

23 Ladies and gentlemen, I'm sorry, one thing I should
24 say, Mr. Shepherd is not here on behalf of the government.
08:02:24 25 He has a family emergency matter to address. And so his

1 apologies, or my apologies, he's not able to be with us.

2 All right. Thank you very much.

3 (Jury out, 4:11 p.m.)

4 THE COURT: All right. Please be seated, ladies
08:02:55 5 and gentlemen.

6 For the record, we have a jury question. I believe a
7 copy has been provided to both sides. The jury question
8 reads as follows:

9 "Judge Adams, what does Abu Ibrahim Al Ameriki
08:03:10 10 translate to in English? Thank you."

11 And it's signed by our juror foreperson.

12 Counsel, what's the government's position as to how
13 the Court should respond to the question?

14 MR. BENNETT: Your Honor, we do not have a
08:03:23 15 problem with the translation going back to the jury. We
16 discussed it briefly with defense counsel, and we were in
17 agreement that the proper translation would be Father
18 Abraham the American, so that would not be an objection to
19 the United States.

08:03:44 20 THE COURT: Father Abraham the American.

21 Counsel for the defendant.

22 MR. DOUGHTEN: Your Honor, in discussing this
23 with the client, he believes the actual translation -- and
24 we apologize to the government because we did have some back
08:04:01 25 and forth -- is Father of Abraham, the American.

1 It wasn't defined in the trial, but we are fine with
2 the stipulation that that's what it means.

3 THE COURT: Father of Abraham?

4 MR. DOUGHTEN: Yes.

08:04:19 5 THE COURT: Father of Abraham, the American?

6 MR. DOUGHTEN: Yes.

7 THE COURT: Counsel for the government, do you
8 have any objection to that proposal?

9 MR. BENNETT: No, Your Honor.

08:04:36 10 THE COURT: Well, Counsel, just let me ask this
11 question:

12 I suppose if there is an agreement, it may be an
13 adequate resolution. However, I don't believe there was any
14 evidence presented in the trial of the translation of the
08:04:56 15 term or the words. So how do we get around that?

16 MR. BENNETT: Your Honor, we agree we asked -- I
17 took a brief moment with the court reporters, did a word
18 search to see if we could find that the translation had
19 actually come into testimony. It does not appear to have
08:05:10 20 come into testimony. The name came up, by who was the
21 author of the GPS for the Ghuraba a couple times in the
22 testimony, but not the translation.

23 So we leave it to the Court. We simply wanted to have
24 an agreement with the defense counsel as to what the
08:05:24 25 translation would be. But whether it goes back to the jury

1 or not, we have no strong feeling one way or the other.
2 It's not in evidence.

3 THE COURT: That's my question. How do I give
4 the jury an answer to a question to which there's no
08:05:43 5 evidence in the record?

6 MR. DOUGHTEN: We agree with the Court that it
7 wasn't given. Our memory was that it wasn't given either.

8 And we don't find it prejudicial one way or another in
9 the context. However, you know, in thinking about it, the
08:06:03 10 Court's probably right because it would be difficult to add
11 a stipulation at this time.

12 It doesn't -- who knows what the jury's thinking about
13 this. I guess after thinking about it, you know, it's
14 probably best that we --

08:06:20 15 THE COURT: Well, the flip side is, thinking out
16 loud, I can't refer them to the record or tell them to
17 recall -- to rely on their mind and memory as to what the
18 evidence has been because there's no evidence in the record
19 of the definition of the term.

08:06:41 20 Or do I want to mislead them, in essence mislead them
21 and tell them to rely on their mind and memory as to what
22 the evidence has been? I don't find that to be --

23 MR. BENNETT: Your Honor, we wouldn't want to
24 mislead them in any way. It's not in evidence. In my
08:07:02 25 thought process, it would only come in as a stipulation

1 between the parties to answer the jurors if the Court
2 thought it would be in the best interest to have the jurors
3 have this information. Since it's not objectionable.

4 But I think the black letter of it is it's not in
08:07:19 5 evidence and they probably should not be provided with the
6 answer.

7 THE COURT: Well, can the parties stipulate to a
8 response at this late date after deliberations has begun? I
9 don't know the answer to that question. I suspect we're not
08:07:35 10 going to find a lot of case law on that issue.

11 All right. We'll take up the issue tonight. We'll
12 take a quick look and see if there is any kind of case law
13 or any type of precedent we can look to.

14 My thinking is, to give you I guess a preview, is that
08:07:57 15 if the parties stipulate and agree, then I don't know how
16 it's prejudicial, reversible, if both sides agree that it is
17 the definition. And I would prefer to have them have an
18 answer to a question rather than be back in the jury room
19 trying to determine and decipher something to which there
08:08:17 20 really is no answer.

21 Mr. Hendricks, is this something you would like me to
22 do?

23 You can answer the question, sir. I know it's your
24 case.

08:08:29 25 (Pause.)

1 MR. DOUGHTEN: Your Honor, the defense position
2 is -- and again, I have not had this issue before. We would
3 rather have the jury have an accurate definition of a word
4 than have them speculating and trying to put together, for
08:09:23 5 instance, what Abu meant in one context, if it means the
6 same context here, that sort of thing.

7 But, again, I think Mr. Bennett is correct, I think
8 the black letter law is that, you know, if it wasn't defined
9 you're stuck with no definition.

08:09:39 10 We would, if it's proper in any way, we would rather
11 at least have the correct definition so that they're not
12 speculating on a term. It may inure to us. It may inure to
13 the government. Who knows. But we would rather it be an
14 accurate definition.

08:09:56 15 THE COURT: The other alternative would be to
16 structure an answer advising the jury that they are to look
17 to the evidence to determine if, in fact, a definition was
18 presented. I mean, essentially that's what we would be
19 asking them to do.

08:10:15 20 Let's think about it. We'll reconvene tomorrow
21 morning at 8:45. We'll discuss it tomorrow morning further
22 and come to a final conclusion shortly before the jurors
23 begin their deliberations. That way they have adequate time
24 to give it some more thought and do some research to see if
08:10:32 25 there is any kind of, again, guidance we can find.

1 So we'll see you tomorrow morning about 8:45, maybe a
2 little earlier than that so we have time to put together an
3 answer and get it to the jurors.

4 All right. Thank you very much.

08:10:43 5 Have a good evening.

6 MR. BENNETT: Thank you, Your Honor. You too.

7 THE COURT: You're welcome.

8 (Proceedings concluded at 4:20 p.m.)
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C E R T I F I C A T E

I certify that the forgoing is a correct transcript from the record of proceedings in the above-entitled matter.

S/Caroline Mahnke 3/19/2018

Caroline Mahnke, RMR, CRR Date

S/Lori A. Callahan 3/19/2018

Lori A. Callahan, RMR, CRR Date